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COMMITTEE ON JUDICIARY
March 10, 2005
LB 437, 750, 580, 752

The Committee on Judiciary met at 1:30 p.m. on Thursday, March 10, 2005, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 437, LB 750, LB 580, and LB 752. Senators present: Patrick Bourne, Chairperson; Dwite Pedersen, Vice Chairperson; Ray Aguilar; Jeanne Combs; Mike Flood; Mike Foley; and Mike Friend. Senators absent: Ernie Chambers.

SENATOR BOURNE: Welcome to the Judiciary Committee. This is our 20th day of committee hearings. Today we're hearing four bills, however, in a little bit different format which I'll explain in a minute. To my left is the committee clerk, Laurie Vollertsen. To my right is our legal counsel, Michaela Kubat; Senator Foley from Lincoln. I'll introduce the other members as they arrive. I thought maybe we could get the introduction out of the way as they filter in. Please keep in mind that some of the senators on the committee will come and go throughout the day introducing bills or conducting other legislative business so if a senator happens to leave while you're testifying please don't take offense to that. They're simply going to do other legislative matters. If you plan to testify on a bill today I'm going to ask that you sign in in advance at the on-deck area. Please bring your information so that it's easily readable and can be entered into the record. We're going to do things, as I mentioned, a little bit differently today. Generally the Judiciary Committee has a lighting system where we limit the amount of testimony. However, after consulting with the introducers of the three bills, LB 437, LB 750, and LB 580 we've made a collective decision to take testimony on those three matters at the same time. And the procedure will be that Senator Smith will open on his bill. Senator Foley will open on his bill, LB 750. Senator Johnson will then open on his bill. The first group of testifiers that we will hear from are going to be supporters of LB 437 and LB 750. And we are going to allocate an hour and 15 minutes to testimony on those two bills. Then we'll take testimony of those individuals in support of Senator Johnson's bill, LB 580 and they will also have an hour and 15 minutes to testify. When you make your way forward to the on-deck area we're going to ask that you clearly state and spell your name for the record and then clearly state which bills you are in support of and which

bills you are in opposition to and so the committee clerk can enter it accurately into the record. And then there are, as I mentioned, two organized groups that will be offering testimony on each of these bills. I think those folks know who they are. If there are people that are not associated with these two groups we will then take their testimony after the proponents of LB 580 and I'll announce that at that time. So if you're associated with the group, you know who you are and we'll take other folks' testimony after that and that testimony will be subject to the regular committee rules. The rules of the Legislature state that cell phones are not allowed so if you have a cell phone please disable the ringer so as not to disturb the testifiers. Reading someone else's testimony is not allowed but if you want to submit it we'll be happy to distribute it and put it into the record. However, since this is a day of exceptions there is one exception to that rule. I had an individual ask me about that and that will become apparent as the hearing unfolds. With that, we've been joined by Senator Pedersen from Elkhorn and again, I'll introduce the other members as they arrive. With that, Senator Smith to open on LB 437. Welcome.

LB 437 750 580

SENATOR SMITH: (Exhibits 1, 2) Thank you, Mr. Chairman, members of the Judiciary Committee. For the record, my name is Adrian Smith, A-d-r-i-a-n S-m-i-t-h. I'm here to introduce LB 437, the Human Cloning Prohibition Act. It would ban only the cloning of humans by somatic cell nuclear transfer in our state of Nebraska. Somatic cell nuclear transfer is the name of the process by which clones are created. The result of the human cloning process is a new human being at its earliest stage of development, an embryo. LB 437 would prohibit this process of creating human embryos. LB 437 does not prohibit any scientific research not specifically prohibited by the act including the cloning of plants and animals or cells other than human embryos. It would specifically be unlawful to knowingly perform human cloning. In addition, it would be unlawful to deliver or receive any embryo or fetus produced via human cloning for the purpose of research. Violation of the Human Cloning Prohibition Act would be a Class IV felony. Cloning is a process, I want to emphasize, of somatic cell nuclear

transfer not the implantation of a cloned embryo in a womb as LB 508 (sic) would define. All human cloning is reproductive and the cloned embryo immediately begins to develop. This somatic cell nuclear transfer always produces a cloned human embryo whether the purpose is to produce children or to destroy them while harvesting stem cells. Human embryos are new human life at its earliest stage of development. The cloned embryos are trying to call cloned embryos something other than an embryo is not accurate or scientific. There is a lot of rhetoric surrounding this and I harken back to a speech made by U.S. Senate majority leader Bill Frist, who emphasized there's so much positive to focus on relating to stem cell research in general. And I refer to stem cell research other than that of embryonic stem cell research. Cloning relates to embryonic stem cell research because it would be the basic artificial creation of the embryo for the express purpose of destroying it so as to harvest its stem cells. And I want to emphasize the fact that, again, cloning is a process. It's not the location or how you handle that or where you place that embryo. LB 508 to me...or LB 580, I'm sorry, really undermines that process of protecting human life. But I also want to...I have a couple of handouts as well. I want to point out a few points that our President pointed to. Because as society has measured how it treats the weak and vulnerable we must strive to build a culture of life and medical research can help us reach that goal by developing treatments and cures that save lives and help people overcome disabilities. And he goes on to thank Congress for doubling the funding to NIH. But to build a culture of life we must also ensure that scientific advances always serve human dignity, not take advantage of some lives for the benefit of others. And I think about the utilitarian philosophy that I think many folks would use to support the destruction of embryos so that their stem cells could be harvested. And imagine if we took that utilitarian point of view that for the greater good we can take advantage of those more vulnerable, those that we think of as lesser in society. I think that's dangerous and certainly inappropriate for government. But I think it's very appropriate that the Legislature take a policy stand. This is a controversial issue. There's no doubt about it. I believe that we need to focus on the advances and successes afforded. The state of Nebraska knows who use its research using noncontroversial methods of research. There's clearly room here for research that

focuses on stem cells but those not harvested from the destruction of embryos. And embryos can be called a lot of different things based on how large they are or how far along they are, but they're human life and I seek to protect that. Thank you, Mr. Chairman.

SENATOR BOURNE: Thank you. We've been joined by Senator Flood from Norfolk, Senator Friend from Omaha, and Senator Combs from Milligan. With that, are there questions for Senator Smith? Seeing none, thank you. We'll have Senator Foley open on LB 750.

SENATOR FOLEY: Thank you, Chairman Bourne and members of the committee. For the record, my name is Mike Foley and I represent District 29 in the Legislature. My opening on this particular bill will be very brief because as you can see, the bill itself is rather concise. And it attempts to address the ethical quandaries associated with biomedical research in a different fashion. We've had a number of bills over the years that sought to prohibit particular forms of biomedical research. This bill takes a different tact and doesn't disturb, at least to the best of my knowledge, does not disturb any particular research that's currently occurring in Nebraska or contemplated although I wouldn't know of everything that's being contemplated. And simply provides that no person may use state funds or state facilities for biomedical research that destroys a human embryo. So it attempts to establish an ethical boundary between the use of public funds versus the use of private funds and restricts the use of public funds, provided no public funds meaning state funds or state facilities could be used for that type of research. Unless there are questions, that will conclude my opening, Mr. Chairman.

SENATOR BOURNE: Thank you. Are there questions for Senator Foley? Seeing none, thank you. We'll hear an opening on LB 580 from Senator Johnson.

SENATOR JOHNSON: Senator Bourne, members of the committee, I'm Senator Joel Johnson from Kearney representing the 37th District. Johnson is spelled J-o-h-n-s-o-n. LB 580 is a bill written to clearly separate human cloning from legitimate promising research that uses a technique called somatic nuclear transfer. It clearly prohibits one human cloning the use of a fertilized egg, three implantation of

the blastocyst, that is a collection of these cells after the somatic cell nuclear transfer via into a uterus or an artificial uterus. That is, a pregnancy. Indeed, the cells are only allowed to divide for a maximum of 14 days. This allows research on a cellular or subcellular level. This bill was actually patterned after another Republican senator, Senator Orrin Hatch of Utah. There are two major reasons for the introduction of this bill. It is meant to allow discussion regarding research, separating this research technique from human cloning which, of course, is repugnant to us all. This type of medical research is going to occur. The passage of the initiative in California was promptly noted by several other states who promptly wished to embark on stem cell research of their own. In Great Britain the revered Cambridge University has put together a world-class research team on this subject. There are several others. Japan, Singapore, India, Israel, this is going to happen. In a recent conversation with Dr. Catherine Verfaillie, one of the world's leading adult stem cell scientists. She reported that scientists are already leaving the United States in part because of the national restrictions already in place. Our own UNMC has become a world-class research center. It has facilities such as the new Durham complex and most importantly quality scientists who have attracted this past year approximately $80 million in research funds. With research centers set to compete for the best scientists worldwide now is not the time for us here in Nebraska to put up a sign, medical research scientists not welcome in Nebraska. In light of the discussion, for the great need to grow Nebraska's economy does it make sense to turn off one of our brightest beacons? Stem cell research is the medicine of the future in the eyes of large numbers of the world's best scientists. To outsource medical research and not believe it will have effect on Nebraska and the U.S. defies what has happened with our clothing industries, steel foundries, electronics, and others. But this time it will affect the health of our people as well as the health of our economy.

SENATOR BOURNE: Thank you. We've been joined by Senator Aguilar from Grand Island. Are there questions for Senator Johnson? Seeing none, thank you. That will conclude the openings. It's 1:45. Would the group that is in support of LB 437 and LB 750 make their way forward, and we will take testimony from those individuals until 3:15 so would the

first testifier in support of those two measures make their way forward and, again, we're going to make use of the on-deck area so please sign in and then if you would, after you state and spell your name for the record, again, clearly state which bills you are in support of and which bill you are in opposition to. Welcome.

AL RISKOWSKI: (Exhibit 3) Thank you. I am here on behalf of Randy May. It's R-a-n-d-y M-a-y as well myself, Al Riskowski. It's A-l and Riskowski is R-i-s-k-o-w-s-k-i. We are proponents of LB 750 and 437 and oppose LB 580. I'm here to take a moment for Randy because Randy is not able to speak for himself. He was born with cerebral palsy and just lately really his vocal cords had to be cut and he's not able to say anything. But he's able to perform. His mental capabilities are just as good...I was going to say myself, Randy, but that may not be a compliment. They're just as good as the typical person in the room so I'll read his testimony. Hello, I am Randy May. I was born with cerebral palsy 43 years ago. I would love for society to find a cure for cerebral palsy as well as other physical and mental disorders but not at the expense of other human lives. I firmly believe that life begins at the moment of conception. I cannot justify taking one life to possibly save another. Yes, I have had a difficult life. However, if my life would have been taken when I was a fetus it would have meant that I would have never graduated from the University of Nebraska, got a job, got married, owned a home, or contributed to society in any way. Please just take a few moments and ponder that. Thank you, Randy May. Randy, I don't know if you have any additional, just for a moment, for time's sake, would you like to say anything more? No? You're good? All right. Any questions for Randy, I would be happy to try and ask that for you.

SENATOR BOURNE: Are there questions for Mr. May? Senator Foley.

SENATOR FOLEY: Mr. May, I just want to tell you how much I appreciate your presence at this hearing today and I admire your courage so thank you for coming.

SENATOR BOURNE: Further questions? Thank you (inaudible).

AL RISKOWSKI: (Exhibit 4) Okay, thank you. I have just a

short amount that, for a moment or two of my own testimony while I'm here and I have given you the full testimony but just like to read a short amount. And I thank you, Senator Bourne and Judiciary Committee for allowing me to speak on behalf of Randy as well as myself. I know that that's unusual but I appreciate it. I oppose any research that would destroy the life of a conceived unborn child as well and the more we cheapen human life to extend our own lives the more human dignity is lost. A few states have gotten caught up in a perceived great moneymaking gold mine in human cloning and embryonic research. I believe such research will cause moral bankruptcy. All 191 U.N. members do agree on a treaty that will ban human cloning from the world, an idea first proposed in 2001. They continue to discuss broadening the ban to cover therapeutic cloning. The Bush administration is aggressively seeking the total ban. The White House says that enough stem cells from human embryos exist for research and that cloning an embryo for any reason is unethical. The United States has thrown its weight behind a resolution offered by Costa Rica to outlaw all human cloning as unethical, morally reproachable and contrary to due respect for the human person. Such a global ban would go beyond the restrictions currently on human cloning under U.S. law. Therapeutic cloning and the other type of cloning, reproductive cloning, differ only in their final result. In reproductive cloning the embryo is implanted in the woman's uterus. In therapeutic cloning it is destroyed. And one last quote I'd like to read you. This is from California bioethicist, Wesley Smith. He said, "When you pass laws authorizing the creation of human life that must be destroyed, you transform that form of humanity into a commodity. Even just emerging human life should not be dehumanized in this way. It changes the way we think about what it means to be human and why being human is important." Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Riskowski? Seeing none, thank you. Earlier my committee clerk pointed out that I made a math error. An hour and 15 minutes will conclude at 3 o'clock rather than 3:15, as I said. Sorry for the error. Next testifier please. Ma'am, have you signed in as well?

ANNETTE WURDEMAN: Yes, I have.

SENATOR BOURNE: Okay, thank you.

ANNETTE WURDEMAN: (Exhibit 5) I'm Annette Wurdeman, A-n-n-e-t-t-e W-u-r-d-e-m-a-n and I'm from Columbus, Nebraska. Chairman Bourne and members of the Judiciary Committee, this is the third time in three years that I have testified before the Judiciary Committee against fetal tissue and/or embryo stem cell research. Today I'm going to tell you why I keep coming back. And I am testifying for LB 437 and LB 450 (sic) and against LB 580. I was diagnosed with Parkinson's disease nine years ago. About eight months after I was diagnosed, my father, who had Parkinson's disease, died. I look back at his life and mine and I realize I was his greatest worry. I would sometimes make a comment about his shaking hands and always with concern he would say to me, your hands shake too. I can still see the day that my dad heard about the research that was being done in Europe where they used fetal tissue from abortions to try and find a cure for this dreadful disease. He was so upset. He was so upset because he hoped more than anything that there would be a cure for his daughter. He knew that there was no way he or I could ever accept a cure that would result from this type of research. Prior to the public being notified of fetal tissue research at UNMC, I was a patient of Dr. Markopoulou at UNMC. Dr. Markopoulou called me and asked me if I would let Life Quest interview me for their program. During the interview they focused on my shaking hands. Two weeks after the program was aired someone I love very much came to me and told me that they had a tremor. The tremor was identical to mine. When I told Dr. Markopoulou about this I could see the shock in her face. Immediately she said to me, "Annette, tremors can be caused by many things and it may not be Parkinson's disease." I so very much hope that the tremor in this person that I love is something else. Like my dad this is my greatest worry. The evening that I became aware that the Board of Regents had voted 100 percent to continue the fetal tissue research at UNMC, I cried myself to sleep. I know how my dad felt. More than anything, I wanted a cure for this person that I love so very much. UNMC and the Board of Regents took all hope away from me that night. I know deep in my heart the feeling of being abandoned. UNMC looks at the human embryo as a glob of tissue with something very precious, plura-potent stem cells. I look on the human embryo as having human dignity with something very precious,

a soul. UNMC has decided to discriminate against any patient, doctor, employee, or student who feels the way I do. This is America and daily our government should constantly fight to eliminate all forms of discrimination. LB 437 will not stop fetal tissue or embryo research at UNMC. But the passage of this ban on cloning says there is a line that they cannot cross. My husband, children and I have been through the pain and suffering of 35 years of juvenile diabetes, cancer surgery followed by a year of weekly chemotherapy, burns requiring skin grafts, Parkinson's disease, and much more. None of this has brought as much pain to our lives as the pain and suffering that has been caused by fetal tissue, embryo and cloning research because this type of research leaves us without hope one way or another. There's one more thing I'd like to cover. Dr. Levesque in California in 1999 took brain stem cells from the brain of Dennis Turner. And he took these brain stem cells, applied chemicals and produced neurons. Then he put it back into the brain of this Parkinson's patient and for five years he had an 80 percent decrease in his symptoms of Parkinson's disease and was able to live a very normal life. Now the disease has begun to return. But there are two points here. One point is we can get neurons from adult stem cells. We don't have to use these other types of amoral researches and the other point is, the first time I testified here the doctor from UNMC testified that they had no way of getting these neurons. And we can. We can get them this way. Also this type of research is a major breakthrough in Parkinson's disease because they now know how to repair the cells that are being damaged. What they do not know is what is causing the damage to them in the first place. And once they find that we will have a cure.

SENATOR BOURNE: Thank you. Are there questions for Ms. Wurdeman? Senator Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Senator Bourne. Ms. Wurdeman, how many years have you been coming down here?

ANNETTE WURDEMAN: Three. Three years.

SENATOR Dw. PEDERSEN: And you have not tired in this effort.

ANNETTE WURDEMAN: No, I haven't. I mean the reason I haven't is because I have children.

SENATOR Dw. PEDERSEN: I had people that I've talked to in the last couple of days that are very healthy, very good shape physically and mentally who are tired of hearing this. And you walk to continue this and come back is admirable and I commend you for it.

ANNETTE WURDEMAN: Thank you.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR BOURNE: Thank you. Further questions? Senator Foley.

SENATOR FOLEY: Ms. Wurdeman, I also want to thank you for your appearances before this committee. You've come here a number of times and I was aware of the Parkinson's situation with yourself and your father. But did I understand you to mention that there's a third family member that has also health considerations, is diabetic?

ANNETTE WURDEMAN: Yes. My husband is a juvenile diabetic for the last 35 years and I know what it is like to live that life. There has been several times when he would not have been here unless I'd been able to be there to bring him out of insulin reactions. I know that there is a great push now for cloning for juvenile diabetes but it's not something that we could accept. In fact, it's putting us in a terrible position. It's not so hard for me to make a decision of life and death when it comes to this research. But it's awful hard for me to see someone I love make that decision.

SENATOR FOLEY: Thank you very much again for coming today.

SENATOR BOURNE: Further questions? Seeing none, thank you. Appreciate your testimony. Next testifier please?

SHEILA THOMPSON: Hello, my name is Sheila Thompson, S-h-e-i-l-a T-h-o-m-p-s-o-n. And I'm here to support LB 750 and LB 437 and to oppose LB 580. Okay. My husband, Bruce, and I were married in 1959. And after finishing college Bruce taught high schools and junior college and later sold

real estate. He loved to golf and he had a four handicap. In 1978 Bruce was diagnosed with multiple sclerosis. Through the years we've hoped and prayed for a cure and so far there isn't one. We've tried numerous medical treatments and therapies but none have had any lasting positive effect. Currently, Bruce is confined to a chair and has only limited use of his left hand. His mind is still pretty sharp so he communicates well. He can't feed himself or scratch his nose. We do have home health aides that help us and for that we're very thankful. In 1995 when Bruce's parents both died, his brother, Fred, his only sibling, came to live with us. Fred has Down's syndrome and has a communication level of about that of a five-year-old. Fred is now 62 years old and continues to live with us in our home. He's the one that just sneezed. (Laughter) As much as we would like to have a cure for both Bruce and Fred, we're opposed to human cloning and embryonic stem cell research. In both cases conception has already begun and we don't feel like healing for Bruce and Fred should be at the cost of other lives. I believe all life has value. Bruce, though he's physically disabled, and Fred, though he's mentally retarded, and also new life, an unborn baby from the time of conception. We have a great granddaughter who is now 18 months old so she was conceived about 27 months ago. I shudder to think that she could have been used in research. And that's all.

SENATOR BOURNE: Thank you. Are there questions for Ms. Thompson? Seeing none, thank you.

SHEILA THOMPSON: Thank you.

SENATOR BOURNE: Next testifier, please?

GREG SCHLEPPENBACH: (Exhibit 6) Senator Bourne and members of the Judiciary Committee, my name is Greg Schleppenbach spelled S-c-h-l-e-p-p-e-n-b-a-c-h, speaking on behalf of the Nebraska Catholic Conference in my capacity as director of pro-life activities. The conference which represents the mutual, public policy interests and concerns of the three Catholic dioceses in Nebraska strongly supports LB 437 and LB 750 and strongly opposes LB 580. Both LB 437 and LB 580 are entitled Human Cloning Prohibition Act and both propose to outlaw human cloning. In reality, only one of these bills, LB 437, can pass the truth in advertising test.

LB 580 is wrong in its claim to ban human cloning. The key to this conclusion is in how each bill defines human cloning. LB 437 defines human cloning as the use of the cloning technique known as somatic cell nuclear transfer to make human embryos for any reason. Hence, it would prohibit the cloning of human embryos for live birth and for utilization in stem cell research which destroys them. LB 580 defines human cloning as implanting cloned embryos into a uterus. Hence, LB 580 would allow the unlimited production of cloned human embryos as long as they are used in research that destroys them and aren't implanted and gestated to birth. It is most disturbing to note that nowhere in LB 580 will you find the term human embryo. Instead, dehumanizing euphemisms such as product of nuclear transplantation and unfertilized blastocyst are used to cloak the biological fact that the product of nuclear transplantation with regard to humans is always a human embryo. This fact is substantiated by the National Academy of Sciences, the National Institutes of Health, and testimony of numerous experts in science and ethics including some who support the cloning of human embryos in research. For example, President Clinton's National Bioethics Advisory Commission, in its 1997 report on cloning said, "The Commission began its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo with the apparent potential to be implanted in utero and developed to term." Ironically, the very goal of LB 580, prohibiting the use of cloning to produce a live-born baby also substantiates this fact, that it is a human embryo. If the product of nuclear transplantation is not a human embryo, why prohibit it from being implanted into the uterus? After all, only a human embryo, when implanted in a uterus will develop into a fetus, an infant, a child, an adolescent and an adult. Another problem with LB 580 is enforceability. The U.S. Department of Justice testified before Congress that because embryos created by fertilization and by cloning cannot be distinguished under a microscope, it would be virtually impossible to enforce a ban only on implantation of cloned embryos. The choice these bills present to you is profound. And that choice is not between research or no research, between cures and no cures as some would wrongly lead you to believe. The choice is this: Will you grant science the unconscionable power to turn early-stage human beings into mere objects to be

produced, manipulated, scavenged and destroyed for the benefit of other humans? Or will you refuse to allow science to transgress the centuries old ethnical boundary to above all, do no harm, a boundary reinforced in recent history with the Nuremberg Code, Declaration of Helsinki, Declaration of Geneva and just last Tuesday with the United Nations General Assembly's Declaration urging governments to adopt laws banning all forms of human cloning. The debate in Nebraska over the last several years, beginning the the university's use of fetal brain tissue from abortions, provides a frightening example of how quickly and easily ethical lines can be violated, tossed aside. This slippery ethical slope was most clearly exemplified by three Omaha World-Herald editorials. The first one, February of 2000, concludes that the Medical Center's fetal tissue research is ethical as long as it does not cause an increase in elective abortions. In other words, as long as prenatal humans are not destroyed for the purpose of research, something the editorial said would be morally reprehensible. A mere one year later, the World-Herald disregarded that ethical line when it opined in favor of intentionally destroying human embryos just to harvest stem cells for research. But again the editorial proposed an ethical line that shouldn't be crossed. It's okay, it said, to do lethal experiments on embryos produced for fertility purposes that would otherwise be discarded, but no embryos should be created just for research purposes. Again, a mere one year later, the World-Herald disregarded that ethical line when it editorialized in favor of allowing the use of cloning to produce embryos just for research purposes. These three bills place before you a watershed decision. By supporting LB 437 and LB 750 you will uphold a critical ethnical boundary and help to forge, in the words of Pope John Paul II, "the path to a truly human future, in which man remains the master, not the product, of his technology." If you reject LB 437 and LB 750 and support LB 580, then the reduction of human life to a mere instrument, a product to be manipulated, will be more complete. For these reasons, the Nebraska Catholic Conference urges you to advance LB 437 and LB 750 and to reject LB 580. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Schleppenbach? Senator Foley.

SENATOR FOLEY: Mr. Schleppenbach, those of us who are not

scientists tend to think of cloning in two, as having two different varieties. One being the reproductive cloning, the other the so-called therapeutic cloning. LB 580, as I understand it, would prohibit the reproductive cloning but would allow the therapeutic cloning. You mentioned the United Nations resolution. I didn't hear about that. How does that resolution relate to these different forms of cloning?

GREG SCHLEPPENBACH: It calls on nations to ban both forms, all forms of human cloning.

SENATOR FOLEY: It specifically mentions the two types?

GREG SCHLEPPENBACH: I don't know that...I haven't seen the exact language but I know that it did say to ban all forms of human cloning, of human embryos so that includes both for so-called reproductive and so-called therapeutic purposes.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Further questions? Seeing none, thank you. Next testifier.

DAVE BYDALEK: (Exhibits 7, 8, 9) Chairman Bourne, members of the Judiciary Committee, my name is Dave Bydalek. That's spelled B-y-d-a-l-e-k. I'm the executive director of Family First, a nonprofit research and education organization affiliated with the national organization Focus on the Family located in Colorado Springs. Prior to joining Family First, I spent eight years as a Nebraska Assistant Attorney General where I argued over a hundred cases for Nebraska's Supreme Court and the Nebraska Court of Appeals. I also spent two years as an advisor to Governor Mike Johanns. I'm here today to express Family First's support for LB 437 and LB 750 and our opposition to LB 580. LB 437 constitutes a complete ban on human cloning. We believe it represents sound public policy as it would ban a process which will require the deliberative sacrifice of human embryos for speculative medical research. Cloning is a way of producing a genetic twin of an organism asexually. Human cloning thus results in the creation of human being whose genetic makeup is nearly identical to that of a currently or previously existing individual. The current cloning debate centers on cloning by means of somatic cell nuclear transfer where the

nucleus of an egg is replaced with the nucleus of another cell, that is, the donor to be cloned to produce an embryo. These somatic cells can be taken from the donor's skin or white blood cells which contain the donor's DNA or genetic code. The genetically modified egg is then stimulated to begin embryonic development. The focus of the ethical debate on cloning has been on the distinction between what is called reproductive cloning and therapeutic cloning which Mr. Schleppenbach touched upon. In reality, all human cloning is reproductive. It creates a new developing human intended to be virtually identical to the cloned subject. Both reproductive cloning and therapeutic cloning use exactly the same technique to create the clone and the cloned embryos are indistinguishable. The process as well as the product is identical. The clone is created as a new, single-cell embryo and grown in a laboratory, then it is either implanted in the womb of a surrogate mother or destroyed harvested embryonic stem cells for experiments. We oppose human cloning for a number of reasons. First we believe human cloning represents a violation of human dignity. A willingness to destroy human life to preserve the health of another violates the most basic principles of life in a civilized society. A good end cannot justify a bad means and a human life should never be used as a commodity for the benefit of another. Creating human life for the purpose of destroying that life is a flagrant violation of human dignity. Second, human cloning exploits women. Women are the ones who must donate the eggs for cloning. Each woman would be injected with superovulating drugs to increase the quantity of eggs she would produce. This places her at a higher risk for ovarian cancer and other health hazards as well as potentially damaging her fertility. Poor women in particular would be induced to sell their eggs to fill this massive demand. Next, funding of human cloning would be irresponsible. Cloning therapies would be derived with human embryonic stem cells. However, there are superior alternatives to those therapies. Adult stem cells represent one of the most promising sources of cures for degenerative diseases that plague humanity. Adult stem cells have resulted in breakthroughs in the areas of spinal cord injuries, heart tissue regeneration, corneal reconstruction, and Parkinson's disease. In some of the material that I've passed out to you, there are two packets that particularly look over all the areas where adult stem cells have actually resulted in therapies that are being

used right now. Attempts at using embryonic stem cells have failed to produce any successes in human patients. Responsible stewardship requires that public funds be directed to adult stem cell research. And finally, opposition to human cloning is compassionate. Cloning advocates frequently try to paint opponents of cloning as uncompassionate towards the diseased and the handicapped. I believe this is false. By endorsing therapies derived from adult stem cells cloning opponents promote cures for the suffering with no harm to anyone including the embryo. We can affirm the goals of relieving human illness and suffering but the means to those ends must be ethical. Therefore, we urge this committee to advance LB 437 and LB 750 to General File for consideration by the entire Legislature and to indefinitely postpone LB 580. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Bydalek? Seeing none, thank you. Next testifier?

JULIE SCHMIT-ALBIN: Good afternoon, Mr. Chairman and members of the committee. My name is Julie Schmit-Albin. I'm executive director of Nebraska Right to Life. We support LBs 437 and 750 and oppose LB 580. Ever since the 2000 session we have come before this committee to plead for limits on the use of unethical medical research. We all remember that what instigated our need to be here was the revelation in 1999 that the University of Nebraska Medical Center had been using aborted fetal tissue for research since 1993. Who would have dreamt that in just five short years we would move from debating whether it was ethical to use the remains of aborted babies to now debating whether it is ethical to create new human life just to destroy it to benefit someone else? We're no longer on the slippery slope in regard to unethical research; we are in a free fall. The aborted fetal tissue debate has now morphed into a debate involving terms such as somatic cell nuclear transfer, embryonic and adult stem cell research and the ever popular yet nebulous catch-all term, stem cell research. It's little wonder that the general public is confused. Senators are left scratching their heads and those of us in the pro-life lobby have to run around with visual aids depicting the various kinds of unethical research. It doesn't help when our adversaries and some of the media further confuse the issues by using the term, stem cell research when they should be differentiating between ethical research derived

from adult stem cells and unethical research derived from the destruction of human embryos. Nebraska Right to Life supports the true bans on cloning which are contained in LBs 437 and 750. We oppose LB 580 because it is a version of the federal clone and kill legislation. It would provide political cover to those who want to be able to go home and say, we banned cloning while it would actually allow human embryos to be created and destroyed for their cells. We have asked the Legislature every year since 2000 to draw a line in the sand on immoral research. That line wasn't drawn and now our adversaries' true motives may be fully revealed here today. What started out in 2000 with using the remains of aborted babies has now evolved into a request to leave the door open to creating life just to destroy it. That is a major leap. I'm not certain how UNMC will be testifying today or if they will or if just Nebraskans for Research will but I would like to add that if ostensibly the position of UNMC has been that they are neutral on cloning which is what I believe I've been told in the past and if ostensibly they intend to stay within the President's guidelines on embryonic stem cell research just using the past stem cell lines, if they come out opposing Senator Foley's LB 750 or something in that manner then I would question why because they're supposed to be staying within the President's embryonic stem cell guidelines and supposedly in the past they've been neutral on cloning. So I'd have to pose the question why that would be the case if they've moved beyond that. And that has always been our concern in the pro-life movement that medical science really doesn't want any limitations or parameters placed on them whatsoever and, of course, we do have to push back because there really is no need for a pro-life movement if we can create human life just to destroy it. And if we're going to leap over into that abyss I'm really afraid that that's something from which we can't recover. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Schmit-Albin? Seeing none, thank you. Next testifier?

LOUIS SAFRANEK: Good afternoon, sirs. My name is Dr. Louis Safranek. I have an MD and a Ph.D. I'm here to speak in support of efforts to ban cloning and embryonic research. Let me just reiterate about my qualifications here as I speak. I have my MD and my Ph.D degree all from Harvard. I have spent seven years on the faculties of both Creighton

University and University of Nebraska Medical Center. Many of the physicians involved in this debate I am on a first-name basis with. I have been active in my research, having done five years of post-doctoral research in cell and developmental biology at Harvard and was subsequently active in research primarily at Creighton University where my principal appointment was. You may have read in recent editorials in the World-Herald support by World-Herald editorialists for representation of Chief Standing Bear on the proposed state quarter. His story goes back a hundred years. He ended up defending himself in front of court with a plea that the court simply recognize his humanity. Today we take that for granted. Were an Indian to stand up here, perhaps one of us are Indians or of Indian heritage. We wouldn't think twice about whether there was a need for him to defend his very humanity or not. A hundred years ago, though, he was forced to stand up in court simply asking the judge to recognize that he was a human being. What is at issue today is precisely the same point, what is a human being? And what things are we permitted to do as part of a research effort on human beings? Virtually everyone can agree on both sides of this debate that a human embryo represents the earliest form of human development. You can find that in any textbook as well. Opponents of human cloning and stem cell research have an ethic based in science which has gathered a large coalition of supporters, all of which feel that human life at this early stage is worthy of respect and should not be treated simply as a tool of research. Those who favor this research have not left us with any ethic that tells us what the limits of this research are. There may be some prospects for important findings from this research but we have no limits designed by the other side telling us what are the borders beyond which this research cannot take place. In earlier testimony I heard Mr. Schleppenbach citing the regression of limits demonstrated in World-Herald editorials over the past five years. So we oppose this research on human cloning or stem cell research because it violates this early embryonic life. My concern is that if this research is allowed to proceed it does so without any limits. The other side has not been able to say, well, we support this research but this is what we would clearly find unethical. In fact, as we have said, there has been a regression in terms of what the ethical limits are to this research. The nubbin of this debate comes down not to whether people are for research or not.

I've spent the majority of my life in one or another type of basic and clinical research. We're all for progress in research on all fronts. However, the research should be done under ethical guidelines. We've presented a consensus which has a clear ethic on the type of things which are allowed and the types of things which would not be allowed. The other side for all their support for this research has been unable to come up with a consensus telling us what, if any, type of research would be prohibited. One hundred fifty years ago Standing Bear had to stand up to defend his humanity. Today those who oppose human cloning and embryonic stem cell research are standing up on behalf of other human beings who do not have a voice, early humans as embryos and those in later stages of development. I would ask you to vote today for Standing Bear, for imagination, for being able to see the humanity of human beings at all stages of development of all races different as they may be from the individuals who we ourselves are. Thank you.

SENATOR BOURNE: Hold on, doctor. Doctor, I'm sorry, we're going to see if there's questions for you. Are there questions for Dr. Safranek? Senator Flood.

SENATOR FLOOD: Thank you, Chairman Bourne, thank you, Doctor, for your very helpful testimony. Mr. Schleppenbach from the Catholic Conference distributed a pamphlet here and the pamphlet describes other types of stem cells that can be used in research. Umbilical cords, placenta, amniotic fluid, adult tissues and organs such as bone marrow, fat from liposuction, regions of the nose, and even from cadavers up to 20 hours after death. Why, with all these other options for stem cell research, why is the embryonic stem cell so important to the research community? If you can gather stem cells from all these other places, why the embryonic stem cell? Why does this debate? I guess not so much our political view but I'm just asking as a researcher and as an academic.

LOUIS SAFRANEK: The ability of embryos to generate cells of different types has been appreciated for about 20 or 25 years since the first work in mice. The ability of adult stem cells even to exist much less to proliferate and fill other roles has really come to be appreciated in only the last ten years and particularly just in the last five years. So there has been some, perhaps, longer focus on the ability

or the potential ability of embryonic stem cells to differentiate into other types as opposed to adult stem cells. I will say in addition, though, that I think that this entire debate is being driven at least to some degree by purely political considerations that relate to the right to life debate. And I think that's one of the reasons that this is particularly a focus. Needless to say, if we move beyond Roe v. Wade which basically said that the fetus has rights but they have to be weighed against those of the mother to a position where we say that the embryo and the fetus effectively have no rights but can be destroyed at will. It shifts the tone of the debate and I think that's one of the reasons why this has been a particularly heated issue.

SENATOR FLOOD: I appreciate that and I appreciate your testimony. One last question. If we can harvest stem cells from these other areas of the body, are these stem cells...can we address and tackle research on Alzheimer's and Parkinson's and Down syndrome by using the stem cells found in these other areas of the body? Is it possible?

LOUIS SAFRANEK: I would have to say it is possible, sir. But I think the research in all of these areas is so early that what the potential of one type of another is, I don't think can be said. What I would say is that all successful human interventions to date have been with adult stem cells and, in fact, university has been one of the leaders in the use of adult stem cells for bone marrow transplants and has been doing it for 20 years. We're not speaking in opposition to the use of these other forms of stem cells, only against the deliberate destruction of embryonic life for the purposes of generating these stem cells.

SENATOR FLOOD: Thank you very much.

SENATOR BOURNE: Further questions? Senator Friend.

SENATOR FRIEND: Thank you, Chairman Bourne. Dr. Safranek, one of the things that we've run into, this is my third year here, dealt with this on the floor already a little bit and one of the things that's concerned me and I wanted to run this by you and get your observation. I'm not an attorney but based on my study I personally believe Roe v. Wade is flawed law. Okay? The debate that I would take to that

with everybody understanding that that's my opinion that Roe v. Wade is flawed, it has always been that life begins at conception. What I ran into in different circles for obvious reasons is that the embryonic discussion tended to blur those lines. The lines that I used to use to combat what I believe was flawed law. Your observation, does the embryonic discussion confuse that line, that life begins at conception? Because I felt like that's what I was cornered with various times not only on the floor of the Legislature but anywhere else that we were debating the subject. Does that make sense?

LOUIS SAFRANEK: Well, let me say, I don't quite understand your exact question. For me, I don't see it blurring it at all. Because regardless of whether Roe v. Wade was flawed or not, it recognized even in the first trimester that the fetus was not without rights but that in the first trimester the rights of the mother should uniformly weigh against the right of the fetus. It never said anything about whether the fetus was human or not or whatever. They accorded the fetus respect but not...

SENATOR FRIEND: Well, it was pretty vague.

LOUIS SAFRANEK: We go to a more fundamental issue here as to whether the fetus or the embryo is even human life at all. I hope any scientists here will agree with me if we've learned anything in the past hundred years of science it's that all organisms, eukaryotic organisms begin their unique existence at fertilization or conception.

SENATOR FRIEND: Well, I think you answered. I guess the gist of the question was, what I had difficulty with, and I may be oversimplifying the argument is that people were trying to differentiate the fact that there were certain folks out there saying, life begins at conception but don't worry about it because that's not it here. That's not the discussion here. So don't worry, let's move the discussion somewhere else. Do you see what I'm saying?

LOUIS SAFRANEK: Yes, I do very clearly, sir and...

SENATOR FRIEND: Okay.

LOUIS SAFRANEK: ...one of the problems, sir, I think is

this. For myself, I'm not arguing religion here. I'm arguing...

SENATOR FRIEND: Nor am I.

LOUIS SAFRANEK: ...I'm arguing a human ethic which has a foundation in the science of the human being. And my ethics are drawn from that point. The other side which is propounding the opportunities of this research has never drawn a line beyond which we should not go. There are no boundaries or ethic which they have set up. Roe v. Wade attempted a fragile trimester formula which went away. As Mr. Schleppenbach pointed out earlier, the World-Herald attempted to draw lines which have steadily regressed over the past five years. There's a broad consensus favoring the embryo as the starting point of human life and of human life that should be accorded respect.

SENATOR FRIEND: Thank you.

LOUIS SAFRANEK: The other side does not.

SENATOR FRIEND: Thank you. I appreciate that.

SENATOR BOURNE: Further questions? Senator Foley.

SENATOR FOLEY: Dr. Safranek, thank you for your testimony today. I think it's very helpful to the committee. I don't know how closely you've had a chance to study the language of LB 580 but it seems to me that there's an attempt to shift the language and the wording a little bit away from where we were on this discussion last year. Last year we were focused more on the question of destruction of human embryos created through the cloning process. LB 580 doesn't use that language. It uses a different phrase, unfertilized blastocysts. Is there a distinction here between the two?

LOUIS SAFRANEK: I'd have to review the exact detail of that particular bill in more detail to answer you effectively, sir. I apologize.

SENATOR FOLEY: That's fair. Thank you.

SENATOR BOURNE: Further questions? Seeing none, thank you. Next testifier?

JOHN SAFRANEK: Good afternoon. My name is Dr. John Safranek. I'm a practicing physician here in the state of Nebraska, obtained my medical degree from the University of Nebraska, trained there. I also have a Ph.D. in philosophy specializing in ethics. I'm here representing the Nebraska Coalition for Ethical Research in support of LB 437 and LB 750 and in opposition to LB 580. What I want to do here is to try to clear up two misconceptions that I think are underlying this debate. The first is that one side is for scientific research and the other side is not. In fact, both sides are for scientific research and we are as supportive and anxious to see cures for Parkinson's, Alzheimer's, and all the other diseases as our opponents are. So we're equally as anxious to see cures for these diseases. So regardless of...so let's leave that aside. The second misconception which is the main argument it seems like that our opponents like to trot out, to undermine our position, is that we're trying to impose some moral view of the good on the state of Nebraska. In fact, both sides are proposing a moral view of the good that's going to become law in the state of Nebraska. And, in fact, you folks will be the ones who will be voting to pass into law some moral view of the good. It's either going to be our side or our opponents' side. The question here and this is really the nub of the debate. It's not how many diseases we can cure or what diseases we can cure. The heart of this debate comes down to the moral issue, the moral status of the embryo and there's just no getting beyond that. If we did not think that the embryo was a human being we would not be in disagreement with our opponents. The fact of the matter is we do disagree on this because we think that the embryo is a human being from the moment of conception. And as my brother pointed out, this is also supported by nearly any embryology textbook that you're going to look at including the one at the University of Nebraska Medical Center. Our position is clear. Our line is clear and it's consistent. The question is, if we do not draw the line there, then when does this new human being become worthy of protection? And as my brother ably pointed out, our opponents will not go on record as drawing any line in terms of when this new human being is worthy of protection when it isn't. And I would challenge all of you to ask them where that line is drawn. If no line is drawn then we can keep pushing back the point where we can do research on this developing human being.

Let's suppose, for example, right now they're saying this is only the early stages. And, but suppose they find out that actually if we allowed the embryo to grow to two months of age or three months of age we would be able to cure Alzheimer's. Would they be supportive of that? What about six months of age? The fact of the matter is, not only have they not been willing to draw any line, they have never attempted and I suspect they will not attempt here to give some rationale for why to draw the line at two weeks, two months, nine months, two years for that matter. Some ethicist proposed two years of age. And I think this is the nub of the moral issue and actually this is the nub of the whole issue is this moral status of the embryo. Again, it's not a question of which diseases we can cure. We're in agreement on that. Now, we have a view and no doubt this is some moral view of the good based on what we believe the moral status of the developing human being is. The other side also has a moral view. And the thing to keep in mind is that all research is governed by morality. Even up in the University of Nebraska Medical Center they have all sorts of rules in terms of which research is allowed and which isn't. You have to have informed consent. There has to be respect for autonomy and various other moral principles. So all research at any institution in the country is governed by morality. And so you will be, by how you draw the line in terms of when this research is...how far along they can do research on the embryo, you will be taking a moral position. Agnosticism is not allowed on this issue. To say well, we don't know when human life begins and we're not going to take a position on that. That's simply not a defensible position. If there's a chance that this is a human being and they've given us no reason to think that this isn't a human being worthy of respect, then you can't take the life. The well-worn analogy is that if you're out hunting and there's a movement in the bush you can't fire at the bush if there's a chance there's a human being there. It's simply not allowed. And so the point is, this comes down to this moral issue of the human embryo and again, what I challenge you to do is to ask them where they would draw the line and why they would draw the line in that place. And if they're unable to, well, then it allows research on the human embryo at any stage as long as there's hope for some cure. In regard to the question that Senator Friend asked my brother in terms of the personhood on Roe v. Wade, I want to address this just briefly insofar as what

the Supreme Court tried to do in that decision is what our opponents tried to do. They tried to say, we're not going to take a stand on the personhood of the fetus. This is what the Supreme Court said in Roe v. Wade. Well, by the very fact that you allow someone to abort the unborn baby, you're saying this must not be a human person because in our country we do not allow people to kill other persons. Other innocent persons are not allowed to be killed. So what Roe v. Wade what the Supreme Court did in Roe v. Wade is the same thing. Our opponents are trying to say, we're not going to take a stand on it. We think we can go ahead and do research on it. Or the Supreme Court, we're not going to take a stand on the personhood of it, you can go ahead and abort it. Well, if you go ahead and abort it then you're going to have to say this isn't a person. Otherwise you're saying that it's legal to go ahead and kill another innocent human being which is not allowed in our country and never has been. The same thing with the position our opponent is taking. To sum up, the basis of this issue is not who's for research and who isn't. We're all for research. We'd all love to see these diseases be cured. The question is and the question that cannot be dodged is what's the moral status of the human embryo? And whether...you try to wash your hands of it and say I'm not going to decide, I don't want to address this issue, by going and allowing that research you're saying that this human being can be killed. What's interesting is that they do use language like product of nuclear transplantation because no one wants to admit they're killing another human being so you say products of conception or you use euphemisms like this. And this has been the case throughout the history of the world. People usually don't say, yeah, I'm killing my fellow being. They say, I'm killing somebody who's less human. Anyway, I just want to again support, ask for your support on LB 437 and LB 750. And in particular, I would ask that you ask those who oppose these bills where they would draw the line and to give some rationale for why. And if they're unwilling to, they are actually drawing the line and saying, this is not a human being worthy of protection. And they're doing that by the very fact they're allowing it to be killed. I'm open for questions.

SENATOR BOURNE: Thank you. Are there questions for Dr. Safranek? Seeing none, thank you.

JOHN SAFRANEK: Thank you.

SENATOR BOURNE: Next testifier, please? Have you signed in, sir?

DANIEL OSBORN: Yes.

SENATOR BOURNE: Okay, thank you. If there's other testifiers, if they'd make their way forward to the on-deck area and sign in, I think we're still on the proponents of LB 437 and LB 750. Welcome.

DANIEL OSBORN: My name is Daniel Osborn. That's D-a-n-i-e-l O-s-b-o-r-n. I'm from Beatrice, Nebraska, and I'm speaking on behalf of Gage County Coalition for Life. I'm speaking and testifying in favor of LB 437 and LB 750 and opposing LB 580. I'd like to start out by mentioning something that Senator Johnson mentioned when he opened introducing his bill. And he mentioned that embryonic stem cell research will be done. And I thought about that and thought, there is a principle of ethics and that is that you cannot derive an ought from an is. In other words, just because a thing can be done or will be done does not mean that it should be done. The problem with cloning in any form is that it is exploitive and destructive of humanity physically and morally. We've already heard how cloning exploits women. And I'd like to point out a couple of other things that I believe are true about what cloning does. One, cloning actually advocates a mentality such like slavery where we are creating a class of human beings solely for the use of others as if they were property. I don't think we really want to visit that again in this society. I also believe that we should recognize as others have said that no human being should be killed or allowed to be killed simply to provide a benefit for another human being. And that is one of the big crux of the argument. And, finally, I'd like to point out that any cloning that's allowed for whatever purpose, no matter what line you may say exists at this point, is going to provide practice research for further abuses down the line. We've already seen how the argument of the slippery slope advances and there's no reason because there are no limits that are set, no lines that are drawn in things like LB 580 to assume that that limit is not going to be pushed further down the line. Do we want to allow this to happen so that by the time we get

to that point we already have a lot of research done that makes us better equipped to argue that we need to move further, perhaps to embryos that are older. Perhaps to people that are already born. Anybody who has followed this debate for any amount of time over the years has seen that things that we did not think were possible before are now being talked about openly and being promoted. I think we need to avoid that by drawing the line here and now. And that's why I urge you to support LB 437 and LB 750 and oppose LB 580. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Osborn? Seeing none, thank you.

DANIEL OSBORN: Thank you.

SENATOR BOURNE: Other testifiers in support of LB 437 and LB 750? Last call. Are there any other testifiers in support of LB 437 and LB 750? Okay, we'll now move on to those individuals in support of LB 580 and, again, we're going to make use of the on-deck area so if you'd sign in.

TOM ROSENQUIST: (inaudible) we thought this is in opposition to the (inaudible)...?

SENATOR BOURNE: Right, yes. I wanted to ask one last time given how we've changed our procedures here a little bit so there's no confusion. Are there any other testifiers in the hearing room that wish to speak in support of LB 437 and LB 750 and/or in opposition to LB 580? Okay, so now we're going to move. I see no one is coming forward so we're going to move on to those individuals that are in opposition to LB 437 and LB 750 and in support of LB 580. And, again, our hour and 15-minute procedure will be in place and that would conclude testimony at around 4 o'clock. Welcome.

TOM ROSENQUIST: (Exhibit 10) Good afternoon, Mr. Chairman, members of the Judiciary Committee. Thank you for the opportunity to testify in this important hearing. I am Tom Rosenquist, Vice Chancellor for Research at the University of Nebraska Medical Center. I am here to testify in opposition to LB 437 and also in opposition to LB 750 on behalf of the University of Nebraska. These bills would restrict research that uses embryonic stem cells. I believe that the therapeutic application of these cells will be the

basis for most of the major advances in medicine in the first half of the twenty-first century, as do the great majority of experienced and credible biomedical scientists. In addition to my administrative position at UNMC, I wish to establish my credentials in the area of stem cell research. I've been a developmental biologist for 30 years and my research on the causes of birth defects at UNMC has been supported by over $10 million in research funding from NIH. Because of my research and its involvement in early development and the fate of stem cells, two of the most important research organizations in the world recently have asked me to help them evaluate applications for funding to do stem cell research. In 2004, for example, I served in the cardiovascular differentiation and development review panel at the National Heart, Lung and Blood Institute that is solely empowered to recommend funding for heart research proposals that would use the Bush administration approved lines of embryonic stem cells. In 2005, I am serving on the cardiovascular development national study group and I am evaluating stem cell research proposals for the American Heart Association, especially adult stem cells. Because of my familiarity in the areas of both embryonic and adult stem cell research, I know that embryonic stem cell research is uniquely suitable to provide cures for diseases that result from the death of cells that currently are irreplaceable. Because the cells are irreplaceable, the diseases therefore are incurable. Included on the list of such diseases are strokes, spinal injury, neurodegenerative diseases, heart attacks, diabetes, and a host of others. It has been claimed by supporters of this bill that cells from adults are available that can replace these dead cells and cure these diseases but this simply is not true. It has been reported by reliable investigators that some so-called adult stem cells may have a limited capacity to differentiate into certain cells of the brain or spinal cord, or some other organs. But scientists who are most active in adult stem cell research are concluding that there is no adult stem cell. For example, for heart muscle cells or for the islet cells of the pancreas. Therefore there is no adult stem cell that could be applied to a cure for heart attacks or for diabetes. Stem cells from adults have been the object of research for many years and this work has been supported by NIH on a much larger scale than the current level of funding for embryonic stem cell research. Indeed, UNMC has been engaged for many years in research that has utilized

adult stem cells from bone marrow that are used in therapy for cancer. But overall, in spite of the duration of research in adult stem cells and the number of dollars spent to study them, the results continue to be highly limited. Some research centers other than UNMC have found some improvement in diseases other than cancer with adult stem cells using experimental embryonic models of disease. Last month, for example, my fellow NIH grand reviewer, Doug LaSorda (phonetic) from Boston reported that bone marrow cells also might be useful in helping recover from heart attacks. However, there are many different kinds of limitations of adult stem cells and they are much less likely than embryonic stem cells to produce real cures for strokes, spinal injury, neurodegenerative diseases, heart attacks, or diabetes. This fact is widely recognized by scientists and has been reiterated by all of the major reputable, scientific organizations that include biomedical scientists. Two top UNMC scientists currently are moving toward the application of embryonic stem cells to the treatment of emphysema and liver disease because the potential for a cure is so much greater than that that may be offered by adult stem cells. It could be argued in fact that the name stem cell should not be applied to both the adult and embryonic cells since rigorous evaluation shows that they are distinctly different in character and capacity. Embryonic stem cells have the capacity to differentiate into any kind of cell. There is no adult cell that can do this. If, in fact, adult humans normally had within their bodies a population of cells that could replace brain cells after strokes, spinal cells after spinal injury, or heart cells after heart attacks there would be spontaneous recovery from these dreaded afflictions. But there are no spontaneous recoveries and those with paralyzing injuries remain paralyzed. As a scientist with credentials in this area of research, I can tell you that embryonic stem cells are going to provide the opportunities for cure that have not been obtained from adult stem cells in spite of decades of research and many millions of dollars spent. The single most important message that I offer today is that embryonic stem cells already have been used to cure many of these previously incurable diseases in animal models. Opponents of this work are absolutely incorrect when they say the opposite. The truth is in the research results. These positive, sometimes stunning results have been obtained by scientists in some of the most prestigious

laboratories in the world, and have been reported in the most rigorously peer-reviewed scientific journals. These results are well known to scientists all over the world and their validity is unquestioned. Here are a few key examples from just the past five years that cover heart attacks, diabetes, spinal injury and Parkinson's disease. In 2000, Kehat and his colleagues in Israel showed that human embryonic stem cells could make new heart muscle. Later they used this work to cure heart attack-related heart arrhythmias in an animal model that is considered very close to the human disease. In 2001, the most prestigious journal in the world, Science, reported that embryonic stem cells had been used to make new pancreatic islets. Of course, it is the loss of these islets that is the cause of Type 1 diabetes, and there is no adult stem cell for the pancreatic islets. In 2002 L.M. Bjorklund at Harvard restored normal function in a model of Parkinson's disease, when he injected embryonic stem cells. Late in 2004 Hans Keirstead at the University of California injected human embryonic stem cells into experimental animals that were paralyzed by a spinal injury and they regained the ability to walk. The results were unprecedented. Dr. Keirstead reported feeling shocked, thrilled and humbled, as all other scientists were as well and as we all should be when we are confronted with such a gloriously life-affirming event as a cure for paralysis. All of this has occurred in the very short period of time that has elapsed since the discovery of viable human embryonic stem cells in 1998. The pace of advancement is electric, faster than any previous major breakthrough in biomedicine and predicts that the results of animal models of these dreaded, heartbreaking, incurable diseases soon will be translated to humans. Although I am a scientist who knows and understands this field very well, I cannot know exactly when these cures will be available for you and me and for our loved ones who are afflicted with incurable diseases. I can tell you, however, that these cures will happen. I can assure you as well that any impediment to the free access of Nebraska researchers to this kind of work will mean that you and I will not be in the vanguard of those who will benefit from the work. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Dr. Rosenquist? Senator Foley.

SENATOR FOLEY: Dr. Rosenquist, thank you for your

testimony. Is your testimony today an effort to convey the official position of the University of Nebraska or are you testifying in some other capacity?

TOM ROSENQUIST: The position of the University of Nebraska was shown by both President Smith and by President Milliken, both of whom are opposed to these bills, yes.

SENATOR FOLEY: So your testimony is the official position, is consistent with the official position.

TOM ROSENQUIST: Yes.

SENATOR FOLEY: As recently as 12 months ago, the Legislature had a very vigorous debate on LB 602 of last year which was for all practical purposes a carbon copy of LB 437 of this year.

TOM ROSENQUIST: Um-hum.

SENATOR FOLEY: Last year the university testified before this committee in a neutral capacity. This year you're opposing the bill. That's a remarkable policy shift in a short period of time. Can you tell us more about why that policy shift occurred?

TOM ROSENQUIST: I can only tell you why we are currently opposed to these bills. And I think it's obviously my testimony that we feel that an impediment to research that's shown by these two bills that would be opposed by either of these two bills would be a serious flaw in the advance of research in general at the University of Nebraska Medical Center and Nebraska as a whole.

SENATOR FOLEY: Was the policy shift at the university a reflection of a discussion that occurred at the Board of Regents level or...

TOM ROSENQUIST: I'm not really privy to the Board of Regents. I'm not a member nor do I attend the meetings so I can't say what's happened at the Board of Regents.

SENATOR FOLEY: I don't know that much about the Board of Regents either but it would seem to me that policy shift of this significance would require a board action of some kind.

But you're not aware of any board action.

TOM ROSENQUIST: No.

SENATOR FOLEY: LB 580 is the bill that you support, I believe, is that correct?

TOM ROSENQUIST: No, I'm not supporting that. I'm only opposing the other two bills.

SENATOR FOLEY: Oh, I see, okay. Very good, I'll leave that question to someone else then. Thank you.

TOM ROSENQUIST: Okay.

SENATOR BOURNE: Thank you. Are there further questions? Dr. Rosenquist, I have a quick question and I'm still trying to get up to speed to be quite honest with you on...

TOM ROSENQUIST: Okay.

SENATOR BOURNE: ...on the science. I heard previous testifiers compare this to Roe v. Wade and then that obviously is a fertilized egg that becomes an embryo and then I have some diagrams here...and I'm sorry, I don't think you have these. They were handed out by one of the introducers that talk about two ways an egg is fertilized, sexual reproduction and asexual. I was under the impression that cloning involved fertilization but looking at this diagram it does not. And can you clarify?

TOM ROSENQUIST: Sure.

SENATOR BOURNE: Again, I am a...just an old car painter before I went to law school so I have a hard time understanding this but to help me out with the science as...it appears the cloning embryos are not fertilized and help, can you flush that out just a little bit?

TOM ROSENQUIST: I think there's a great deal of confusion about what the term cloning means. It's a very broad term that's used in science to mean the reproduction of anything from a single molecule of DNA, a protein, a cell by any means. So all of these things can refer to the term, cloning. What I guess the issue is about reproductive

versus therapeutic cloning and somatic cell nuclear transfer so I'll address that issue and then one other issue related to this. In the case of somatic cell nuclear transfer, the case is that an adult cell, your cell, for example, or my cell, a skin cell the nucleus is removed and then induced in some way and I'll tell you what that way is in a minute, to behave as if it were an embryonic cell. In some cases in experimental animals, these kinds of clones have been used. Dolly the sheep is an example, to actually reproduce the sheep. In the case of human beings it isn't known whether or not in fact this is possible. The question about that cell is I think different from a conventionally fertilized egg. There is no conception event in somatic cell nuclear transfer. There is no unique DNA and it isn't clear, I think, probably ethically when that cell would obtain special status when it starts to divide and behave in a different way. So, in fact, that kind of cloning doesn't require an egg and a sperm, currently requires an egg. One of the earlier testifiers said that providing eggs in some way exploits he said women. And I'm thinking and while he was talking that I had never heard that about men who donate to sperm banks. I'd never heard that was exploitation. I know probably one of Dr. Safranek's classmates because some of mine earned their way through graduate and medical school as sperm donors and I don't know that anyone ever really became incensed about that. So I'm not sure that that's a particularly legitimate case and I wanted to comment upon that. One of the other issues that frequently comes up is embryos that are formed in the conventional way, an egg and a sperm in a dish by in vitro fertilization and in vitro fertilization laboratories fertility clinics around the world. And we haven't talked about that and whether or not this is a principle that we need to be considering here. Those embryos and we understand right now there may be as many as 400,000 of those embryos currently that are frozen. As far as we can tell, there's only reproductive intent for about 20,000 of those embryos so you can do the math. A huge number of those embryos will continue to decline. They're not frozen. There is no such thing as suspended animation so they're not frozen in suspended animation. They are, believe me, declining as they are frozen so they will either continue to decline and die as frozen or they will with the permission of the parents be destroyed. We think the ethical principle here, the ethical, moral, and legal principle is exactly the same as the principle in

organ donation. That if these eggs, these fertilized eggs are going to be destroyed they ethically and morally and legally can be and should be put to some other use. So that's another issue.

SENATOR BOURNE: Thank you. Further questions? Senator Foley.

SENATOR FOLEY: Dr. Rosenquist, I'm not sure you were being fair to the testimony of the previous party who came forward regarding the donation of eggs for research. The point that the testifier made to the committee was that the use of drugs which cause a woman to hyperovulate could, in fact, cause damage to the reproductive system. And that was his concern that women would be exploited in that fashion by giving some financial inducements to take these drugs, donate their eggs, and then thereby causing damage to their reproductive systems.

TOM ROSENQUIST: There definitely is an increase in the potential for some kind of reproductive problem with those hormones. That's true.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Are there further questions? Seeing none, thank you.

TOM ROSENQUIST: Thank you.

SENATOR BOURNE: Next testifier. Welcome.

PIERRE FAYAD: (Exhibit 11) Good afternoon, Senator Bourne, Senators. I am Dr. Pierre Fayad, F-a-y-a-d. I'm the Reynolds Centennial professor and chairman of the Department of Neurological Sciences at UNMC. And I come to you first as an interested and concerned citizen and second, as a neurologist who provides care for patients with neurologic disease in our state. I come to discuss with you the most important organ in our body that needs no introduction, the brain and the nervous system that determine who we are, controls our behavior and shapes us as human beings. It is a marvel of design, architecture, and effectiveness and efficiency in health but, unfortunately, in disease states it is the most disadvantaged organ since the death of nerve

cells is largely irreplaceable through a natural process. And neurologic disorders are major contributors to death and disability. Disorders that begin in early or mid-life such as seizure disorders, brain injury, repetitive trauma, and multiple sclerosis are responsible for a considerable lifetime burden of chronic disability and a loss of productivity. And disorders that affect the elderly such as stroke, dementia, and Parkinson's disease will become of increasingly greater importance as the population ages. And as you are aware, Nebraska is one of the leading aging states in our country which places us at a higher risk of burden from these diseases in the near future. I'd like to share with you some of the unfortunate statistics. As stroke is the third leading cause of death and a leading cause of disability in adults, it is more disabling than fatal and costs over $50 billion on a yearly basis in the United States in healthcare costs and lost productivity. Multiple sclerosis is the most common disabling neurologic disorder in young adults. Fifty percent of all trauma, deaths in the United States involves significant injury to the nervous system. Dementia and Alzheimer's disease rates double every five years. Parkinson's disease is one of the most common neurodegenerative disorders and expected to triple over the next 50 years because of our aging population. Undoubtedly, these statistics are the only the tip of the iceberg as the personal suffering from the patients, the loss of independence, the burden imposed on families and the dramatic lifestyle changes defy any fair description or statistics as you have heard already from the prior testimonies. Over the past few decades, major advances have been achieved in the prevention of various neurologic disorders and improvement of their management once they have occurred. Spectacular treatments demonstrate the ability of science to extract the most functionality from the nerve cells even when injured and utilize the healthy ones to compensate for the loss of functionality from other damaged cells. The confluence of improved engineering pharmacologic research and new devices brought us a much higher degree of hope. Yet in spite of all these advances, once nerve cells are damaged no other cells will be born to replace them. This is a natural process that we expect in other organs. The only remaining hope to help us cross this threshold to date is the promise represented in stem cell research. This could potentially allow us repairs to the nervous system after an injury and allow patients to

be integrated back into their families, societies, and be productive citizens rather than dependent on everyone else to perform benign tasks like bathing, dressing, and eating that we all take for granted. When I came from Yale University four years ago to build a new department of neurological sciences at UNMC I came with a commitment to enhance neurologic care in Nebraska and bring it up to par with the rest of the nation, engaging UNMC and adding to the knowledge and making Nebraska in the forefront of neurologic advancements. The most common question I get asked by an anguished patient or their family after having had a stroke or given the diagnosis of Alzheimer's disease or Parkinson's disease, should I have hope that I will recover or will I be cured? Please do not take that hope away from them. It is the last thing they have that give them the strength to endure their suffering. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Dr. Fayad? Senator Foley.

SENATOR FOLEY: Dr. Fayad, thank you for coming today. You're also in a very senior position at the University of Nebraska. Let me put to you the same question I asked of Dr. Rosenquist regarding the shift in policy at the university from neutrality on LB 602 of last year versus opposition this year to what's for all practical purposes the same bill.

PIERRE FAYAD: I have been in Nebraska only for the past four years and I have not followed the political debate closely until this year. I have been quite busy with having two young children and starting a new department so I cannot comment on that.

SENATOR FOLEY: I understand that but how was it communicated to you that the university would be in opposition to these bills?

PIERRE FAYAD: The two bills were discussed in front of me and I thought that the two bills would restrict our ability to cooperate nationally with potential research and be involved in such research in the future.

SENATOR FOLEY: But that was not a problem...

PIERRE FAYAD: But that is my own personal testimony.

SENATOR FOLEY: But that was not a problem as recently as 12 months ago.

PIERRE FAYAD: As I said, I was not involved in the debate 12 months ago.

SENATOR FOLEY: I see. Does your responsibilities at the university involve in any way the use of fetal tissue?

PIERRE FAYAD: No, I'm not a basic scientist; I'm a clinician. But I'm responsible for developing the department.

SENATOR FOLEY: Perhaps we'll hear from someone else on that topic. Thank you.

PIERRE FAYAD: Thank you.

SENATOR BOURNE: Further questions? Senator Flood.

SENATOR FLOOD: Thank you, Chairman Bourne. Thank you, Doctor, for your testimony today. Senator Friend and I have been discussing this. The last testifier that was here talked about the use of embryonic stem cells and you said that no sperm was involved. We're not the smartest bulbs on the block either on this end of the table and we'd like to know...

SENATOR BOURNE: I'm glad you admit that, Senator Flood (laughter).

SENATOR FLOOD: ...limit it to this debate. Let's start over at the sperm and the egg. That's conception for me; that's human life for me. Would you walk me through the steps of embryonic stem cell research and what are we talking about here? At one point, I thought maybe the issue was getting cloudy last time. Is it an egg? Is the egg fertilized? What's the, you know, we talked about status. For a layperson, could you help me with that?

PIERRE FAYAD: I would love to but, unfortunately, I'm not in that capacity to do that. Maybe Dr. Rosenquist could volunteer and answer for me because I am not a basic

scientist again and he would be the person to address that, if necessary.

SENATOR FLOOD: Okay. Thank you.

PIERRE FAYAD: Thank you.

SENATOR BOURNE: Further questions? Dr. Fayad, I have a quick question, and again I'm...sometimes when you get into complicated matters like this you're reluctant to ask questions because to you they might seem so basic that it would embarrass me if I knew how basic my question was. I've been involved in this. I've been in the Legislature for six years. I'm more familiar, I think, with the fetal tissue because I've read voluminous amounts of information on that. I'm not as familiar with this. But when I hear people say that adult stem cells present some hope or opportunities for good outcomes via research, I struggle with that because if they would provide some sort of benefit it strikes me that well, we all die. There's a reason we die. It's because we, I assume, things wear out or we wear out of new cells to replace the old. If there was legitimacy in saying that adult stem cells are a viable means of research it seems contradictory. We wouldn't...if that was true, we wouldn't die. Am I being too basic or, I mean, just commonsense wise it just strikes me as you have a cell that's new versus a cell that's old. It doesn't make any sense that that the new one would be less...present less potential than the old one. Can you offer anything to...?

PIERRE FAYAD: As Dr. Rosenquist mentioned, there are two different types of cells and the potential for each is different. And the characteristics and the chemicals they produce are different. And that is not currently well known what are all the differences? And that's what research is about to try to determine what is the potential of each and what are the characteristics of each and that's why the research on both lines is promising because it can bring two different aspects of the promise of each type.

SENATOR BOURNE: Thank you. Further questions? Seeing none, thank you.

PIERRE FAYAD: Thank you.

SENATOR BOURNE: Next testifier?

WILLIAM SCHOENFELD: (Exhibit 12) Afternoon. My name is William Schoenfeld, S-c-h-o-e-n-f-e-l-d. I was diagnosed six years ago with Parkinson's disease. By education, I was a pastoral musician in the Presbyterian church for over 20 years. My skills were in playing the pipe organ, piano, choral conducting, being an organist and choirmaster, that's conducting and playing at the same time from the organ, administering extensive music ministry programs and pastoral skills. Parkinson's has robbed me from the ability to play the keyboard instruments with any proficiency, to conduct a choir without involuntary body movements known as dyskinesia which I'm having right now, the energy to administer a music program or to stand in the pulpit and preach and conduct worship. The amount of mental focus and energy it once took me to play intricate Bach preludes and fugues, or to play and conduct a choir at the same time, I now have to use at times during my day to just walk across the room in my home. The message and plea I bring to you today is that the research in embryonic, fetal and adult stem cells and their potential use in curing Parkinson's, ALS, and other diseases is moving forward worldwide. I would hope that the state of Nebraska will have the vision to follow the bold commitments being made into such research by other states. It would be simply discouraging to see the dedicated and passionate researchers in Nebraska be restricted or criminalized for their cutting-edge work to bring healing to individuals like myself and those who battle these diseases. This research is breaking new ground in medical and bioethics as well as theology. At one time in medical history it was firmly believed that the soul of an individual resided in the heart or liver or other body organs. Our understanding has matured. If we still held this former mistaken assumption, how many heart, liver, kidney transplants would be done, saving thousands of lives, many of those transplants executed right here in our world-class transplant centers in Nebraska? I realize that no individual has yet been successfully cured of Parkinson's disease or any other form of dementia with embryonic, fetal or adult stem cells. There have been no home runs, if you please. However, there have been enough base hits not to ignore the potential curative properties found in this research. Let us not lose sight of the fact that the enemy here is not those dedicated and driven researchers who seek to restore the quality of

life many of us only now remember or never had. The enemies are the diseases. I believe that by God's providence and grace I was led to Omaha to receive cutting-edge Parkinson's treatment. I know I am in the right place, in a community where there is a facility such as the Durham Research Center where I and many others have our hopes kept alive and will benefit from the high watermark research being done in this facility. Thank you for this opportunity to share my views.

SENATOR BOURNE: Thank you. Are there questions for Ms. Schoenfeld? Seeing none, thank you, appreciate your testimony.

WILLIAM SCHOENFELD: Thank you.

SENATOR BOURNE: Next testifier, please.

DEB GOKIE: (Exhibit 13) Good afternoon, my name is Deb Gokie. That's G-o-k-i-e. And I'm speaking in opposition of LB 437 and LB 750. On January 6, 1998, my family's life changed drastically. My nine-year-old son, Justin, was diagnosed with type I diabetes, a chronic illness that strikes children at random. I had no knowledge of this disease and there was no diabetes we could trace back to my ex-husband's family or mine. Justin went from a happy-go-lucky athletic child to a child who gave himself four shots of insulin every day and tested his blood sugar eight to ten times per day by poking his finger to get a drop of blood. If you are as ignorant as I was about type I diabetes here is an example of a day in a child's life. Keeping in mind a normal blood sugar for you and I would be 70 to 150 which is what we strive to get for a child, and they start their day at 7 o'clock in the morning testing their blood sugar, taking a shot of insulin and they're probably allowed four carbohydrates for breakfast. At 10 o'clock in the morning they test their blood sugar and are allowed one carbohydrate snack. At noon they test their blood sugar, take a shot of insulin, and maybe get another four carbohydrates for their meal. At 3 o'clock in the afternoon they test their blood sugar and possibly get two carbohydrates. At 5 o'clock they have dinner which is probably five carbohydrates and they test their blood sugar and take another shot of insulin. At 9 o'clock in the evening, they test their blood sugar, have a two carb snack with protein to help keep their blood sugars maintained

through the night and if their sugars are low they have to have another carb. And if their blood sugars are high they have a shot of insulin. At 3 o'clock in the morning they test their blood sugars. If they're low they have some juice and if they're high they take a shot of insulin. This is the only time that they can eat. This is a schedule that they must stay on irregardless so they live with this constantly for the rest of their lives. Imagine, if you will, the consistency of ketchup flowing through your veins and your organs trying to pump this thick blood through your body. This is a high blood sugar which is silently causing damage every day. The consistency of water flowing through your veins is the low blood sugar. This makes you very weak, shaky, and not enough energy to take a straw from a juice box, pull the straw off, put the straw in and drink it by yourself. My son is my hero. At the age of nine he left the hospital, determined to give himself his own shots and test his own blood sugars. No nine-year-old should have to do this. He's given himself 6,104 shots and 20,272 finger pokes. Justin is 16 years old now, almost 17, and he does not wake up in the middle of the night if he has a low blood sugar. So we are very careful that his blood sugar numbers are a bit over the 150 at night. This past Christmas Eve Justin went to bed shortly after we got home from midnight mass. With a blood sugar of 178, he went to bed. Two hours later at 2 a.m. he was crying out to me, Mom, I think I'm low and I went to get him juice and tested his blood sugar. His blood sugar was 38. He woke up because he was dreaming that his fingers and hands were numb and he realized that he was low. And I'm very thankful that Justin woke up because had he not, he would not have been here today. I thank God every morning for Justin's life. Thanks to research, Justin is now on an insulin pump, another limb, if you will, a pager device that has a small tube with a shunt that Justin injects into his stomach every two days. It gives him an insulin drip 24 hours a day. And now he can eat any time he wants to, he can eat whatever he wants to. The schedule that I told you before is eliminated with his insulin pump. He still has to count carbohydrates. He takes additional insulin when he eats his meal and he still has to test his blood sugar several times a day. Along with being Justin's mother, I'm also the executive director for the Juvenile Diabetes Research Foundation here in Lincoln. I've had the opportunity, if you will, to meet many families whose lives have been changed by type I diabetes. Megan, who is 11, is

afraid to go to sleep at night because her blood sugar may drop too low and she will not wake up or she will wake up in seizures like she has for the last couple of months. Bryce, who is two and was diagnosed at the age of 11 months, cries when his mom and dad have to try and hold him down now for insulin injections and wants to know why they're hurting him. And little Ryan who asked me at the walk this year, Deb, are we going to cure my diabetes today? Yes, Justin can run, jump, talk, and walk. However, when his blood sugars are low, he can barely do these things and we have to drop everything to help him get sugar into his system. When his blood sugars are high, it is damaging his organs, silently killing him daily. The complications are blindness, kidney disease, heart disease and limb amputations. I don't want this for my son. Everyone has a cross they must bear in life, and Justin's is type I diabetes. It's my hope that this horrible disease never touches you or your families. It's my hope that diabetes never touches you or any of your family members. I want to find a cure for my son, for Megan, for Bryce and for Ryan and for Shannon who I met today that you're going to hear from. And please don't take away the possibility of finding a cure for Justin. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Gokie? Thank you very much for your testimony. Next testifier, please.

SHANNON WOOTEN: Hi, my name is Shannon Wooten and I am 15 years old and a sophomore at Skutt Catholic High School in Omaha, Nebraska. I would like to thank you for the opportunity to speak to you today. I am speaking in opposition to LB 437 and LB 750 and in support of LB 580. I was diagnosed with juvenile diabetes July 23, 2002, one month after my lucky 13th birthday. Even though I've only had juvenile diabetes for two and a half years it is hard to remember my and family's life without it. Juvenile diabetes is not something that will go away in ten days if I take antibiotics. I deal with it 24/7 365 days a year. I am now dependent on insulin to survive and insulin is not a cure and it will not prevent any of the long-term complications associated with juvenile diabetes. I enjoy playing sports and participate in high school athletics which are physically demanding. Unlike normal kids, I can't just run onto the court and play. I have to be very disciplined and

worried about trying to control my blood sugar so that I can play. Too often I cannot control my blood sugars. When that happens, I can't participate in sports or in the classroom. On a normal day, I have to poke my fingers seven times a day to test my blood sugars and to try and keep them in a safe range. But with athletics I have to add checks before I play, during and after I play. Then because of the physical activity, my parents check me at midnight and 3 a.m. so that I don't go into a diabetic coma because my blood sugars could fall so low since my body can't make its own corrections. I would like to read a poem that I wrote shortly after I was diagnosed. Dear God, Where were you that day my news was given? Where were you when I started crying? Where were you when I arrived at the hospital in tears? Where were you when I was worrying how much my life would change? Where were you when my parents wish it would have happened to them instead of me? Where were you when I needed you most? I knew where you were. You were with me the whole time protecting me and holding me so that I was safe and unharmed. At 15, I worry about the long-term complications of juvenile diabetes such as going blind, kidney failure, possible amputation, and even early death. Most 15-year-old girls worry about things like friends, clothes, what movies we're going to see, and guys. I really want a cure because this way of life with needles and constant worry is very hard on me and my family. I am confident that we will find a cure because of the responsible decisions that adults around me will make. I respect those who don't want themselves or their relatives to benefit from this research. I only ask that others respect my desire for hope and promise that this research presents. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Wooten? Thank you for your testimony, appreciate it. Next testifier.

DWIGHT WILLIAMS: (Exhibit 14) My name is Dwight Williams. Dwight is spelled the correct way, D-w-i-g-h-t, Williams, W-i-l-l-i-a-m-s. I'm also from Elkhorn. I serve as pastor of Peace Presbyterian Church in Elkhorn, Nebraska. Thank you for the opportunity to speak to you today. I wish to address some of the ethical implications that are raised by the pending legislation. First, it's clear to me that persons of faith are not of one mind when confronting this

issue and these issues. Although religious folk are often portrayed as standing in opposition to stem cell research this generalization is not accurate. Within every faith community there is a diversity of opinion. No one single perspective represents the voice of religious and ethical conscience. There does appear to be one point of commonality linking our faith communities and that is the respect and reverence for life. We believe that we are somehow inheritors of something sacred, something special, something important that there is a special gift from our Creator. I've been a full-time pastor for 21 years and back in 1983, the year I was ordained as a minister my denomination called upon Presbyterians and legislators to see that research and development in science be guided by human values of survival, enhancement of life, justice and equity in access, and that fetal and embryonic research be undertaken with caution and sensitivity. The ongoing dialogue within my denomination reflects the deep struggle within all faith communities, Christian, Jewish, Muslim, Hindu, Buddhist, and others, asking such questions as when does human life begin? What are the proper aims of biomedicine and what are the appropriate methods? What are our moral obligations to one another particularly the weak, the poor, the diseased? What are our moral obligations to future generations? How do we make legislation that does not have the effect of imposing one religious perspective upon all people with the force of law? And so in 2001, the General Assembly of the Presbyterian Church U.S.A., the largest Presbyterian denomination in the country and the denomination in which I serve, voted to approve a policy which affirms the use of fetal tissue and embryonic tissue for vital research. And the statement goes on to urge diligent study and dialogue because a respect for life includes respect for the embryo and fetus and we affirm that decisions about embryos and fetuses need to be made with responsibility. Exercising responsibility and caution does not mean ban it all just to be sure because that in itself contains profound ethical implications. Way back in 1992 when stem cell research was hazier and scarier than it is today, my denomination went on record opposing a ban on federal funding of research that uses fetal tissue. Let me say it another way, 13 full years ago, my church supported government funding of fetal tissue research. Over the years I've had conversation with many people from a variety of faith communities and invariably someone will use the terms,

slippery slope, implying that even to consider stem cell research puts us on a dangerous hill where disaster lurks below. For the ethicist, there is no such thing as a slippery slope. There is instead a weighing of principles and facts and actions and consequences. A quick example, we have judged it ethical to kill living plants and eat them. We permit lawful farming. We don't tumble down that proverbial slippery slope into homicide. We even eat livestock, poultry, fish, and we manage to keep our feet firmly planted on a slippery slope both legislatively and ethically. And that's why I speak to you today, urging caution and reason but opposing restrictions. Last year, in 2004, the Presbyterian Church U.S.A. reaffirmed its commitment to cautious support of stem cell research. As people of faith, we believe that scientific advances will rekindle hope in many people, and that we should support stem cell research through many diverse sources, one of them being pre-embryonic in form. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Pastor Williams? Seeing none, thank you.

DWIGHT WILLIAMS: Thank you.

SENATOR BOURNE: Next testifier?

DAVID CROUSE: (Exhibit 15) Mr. Chairman and members of the Judiciary Committee, my name is David Crouse. Last name is spelled C-r-o-u-s-e. And I serve as the Associate Vice Chancellor for Academic Affairs at the medical center and I'm also a professor of genetics, cell biology and anatomy at the Medical Center. In my career as a basic science researcher I spent nearly 20 years largely funded by the National Institutes of Health, working to develop a better understanding of adult stem cells and the roles that they play following radiation exposure and transplantation often in the setting of cancer. And I have worked with my clinical colleagues in that regard. I consider myself an experienced stem cell scientist and I'll be happy to answer questions in that regard later on. But for today, let me make a different point with respect to my opposition to LB 437 and LB 750 on behalf of the University of Nebraska. I do not know what the future will bring with the world of international turmoil and bioterrorism and all the newly emerging infectious diseases but I do know that our

population is aging and I do know that there's a growing burden of difficult diseases that are hard to manage and we do not have effective cures for those diseases. If LB 437 and LB 750 become law, some critical research simply will not be permitted in Nebraska. That research holds so much hope, as you already heard, promise for cures in the future. We're not there yet but it's hard work and we intend to do it. I do not want our future health and our future care of our population deflected by these legislative actions. Prohibiting research will have a chilling effect also on our recruitment at the medical center and retention of top scientists, top clinicians, and students which you'll hear later. And it will have a negative effect on the national stature of our university and on the economy of the state and that's really what I wanted to focus on. The national scientific community and media are watching what is happening in Nebraska whether you know it or not. There have been numerous recent news articles about that in the national media. Let me be more specific about the potential impact because it's widely known. The research enterprise at the UNMC site alone now brings in about $80 million a year to the university and to the state of Nebraska. That research expands and supports a high tech environment that attracts well-paid people who are highly educated. The National Institutes of Health projects that each million dollars of research support generates approximately 34 jobs in Nebraska. You can do the math. That's a lot of people. Currently, our research scientists and clinicians successfully compete with the best in the world and we are always looking for researchers who can lead rather than follow their peers in fundamental and translational research. LB 437 and LB 750 will negatively impact this research environment, I can assure you. Other U.S. states and countries around the world see this economic picture quite clearly. Let me give you some examples. California took the clear lead in this area last year by the public support of a referendum that funds stem cell research to the tune of $3 billion in the state of California. That occurs over ten years so that's $300 million a year. That's more than ten times what the NIH spent per year on embryonic stem cell research in the last year recorded. California will spend ten times that amount next year. Okay? It also is three times what the NIH spends on all stem cell research, adult and embryonic so, give you a sense of contrast. New Jersey just passed a legislative action which will provide

$50 million over the next five years. It's loaded on the front end to build an institute. Both of these allocations specifically support embryonic stem cell research and somatic cell nuclear transfer or therapeutic cloning. Both of them specifically support that. Presently, their proposals were similar. Publicly funded research programs in nine other states. I'll list them for you, Massachusetts, Connecticut, New York, Maryland, Virginia, Florida, Wisconsin, Illinois, and Washington. They're not all going to pass but some of them will and there will be additional competition out there. Coincidental with this, at least 20 major academic institutions in America alone have opened stem cell institutes, stem cell centers, and stem cell programs and all of them are actively seeking investigators and students as well as promoting their research efforts around the country. It does not make sense for Nebraska to ban cutting-edge research that is vigorously promoted and publicly funded in our competitor states. It simply does not make sense. What kind of a message does that send to the people we are trying to recruit and the students that we are trying to get to come to Nebraska? That's the core one message, remember that. It's no wonder that California and the other states are making an all out effort to get these scientists and biotech companies will move right along with them and that will change the balance tipping it rather significantly to the west. On the international scene, all except for a handful of the research-oriented nations permit and even fund embryonic stem cell research and it is not limited arbitrarily by some predetermined group of embryonic stem cells that are proving to be increasingly useless, by the way. Most of these same nations also fund and permit therapeutic cloning while banning reproductive cloning. We, of course, like most scientists don't support reproductive cloning. The list of permissive countries includes both of our neighbors, Canada and Mexico. Mexico is the most Catholic country in the world. It also includes England, Israel, Sweden, Switzerland, the Netherlands, Spain, Belgium, India, South Korea, Singapore, Japan, China, Taiwan, and Australia. That's a formidable list of competition when you're working to get internationally renowned scientists. It also includes all of the major diverse religions of the world, Christianity across many of them. I want to remind you that there were significant controversies and recurring proposals to ban other major advances in biomedical areas. Those

include childhood immunization, fluoride treatment of water, blood transfusion, modern contraception methods, in vitro fertilization and test-tube babies about 25 years ago, heart and organ transplantation, and studies with the human genome. Subsequently, each of these areas has been responsibly developed and regulated and they benefit the health and welfare of our citizens and we would be a less healthy society without those. In the coming years, therapeutic cloning and embryonic stem cell research will go forward. Hopefully, it will be in the hands of responsible scientists and clinicians and, hopefully, it can happen in the state of Nebraska. I believe we can help develop those advances in biomedical technology and translate them into clinical practice right here in Nebraska and I respectfully and sincerely hope that you can oppose LB 437 and LB 750. And I thank you and would be happy to answer questions.

SENATOR BOURNE: Thank you. Are there questions for Dr. Crouse? Senator Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Senator Bourne. Dr. Crouse, is the university using right now embryonic...are you doing embryonic stem cell research at this point?

DAVID CROUSE: Two of our investigators, as was well-publicized in the news, were going for training. One of those laboratories has already gone for training although I don't know if it happened. Their plan was to bring back from the training site which was Wisconsin, the University of Wisconsin, bring back embryonic stem cells with them. They are from the Bush-approved guidelines and this is with full knowledge as in the press. So I think it is going on right now, yes.

SENATOR Dw. PEDERSEN: You were here a couple of years ago and testified, I think, on...

DAVID CROUSE: Yes, I was.

SENATOR Dw. PEDERSEN: ...on the, on my fetal tissue bill that I had offered at that time. The statement from the university at that time was they were not doing it and they had no intentions of doing it. That has changed and I think that has changed at this point?

DAVID CROUSE: Well, I'm not sure that we ever said we had no intentions of doing it. We said we were not doing it. I'm not sure that I...I certainly never said that.

SENATOR Dw. PEDERSEN: Okay, okay. And I may stand corrected on that.

DAVID CROUSE: In fact, we have admitted that there were scientists who were interested in doing this from the start, that there were scientists interested in doing it. But we are working within the Bush-approved guidelines. We are using the embryonic stem cell lines that have been approved by the Bush administration. Even acknowledging their shortcomings in so doing, it will allow our scientists to understand how to work with these cells.

SENATOR Dw. PEDERSEN: Don't get me wrong, I'm in awe of what you do. I just don't like the use of...which, if you're using the...

DAVID CROUSE: I respect that position.

SENATOR Dw. PEDERSEN: ...adult stem cells or the embryonic stem cells because what you're doing is I'm just in awe of. It's fascinating.

DAVID CROUSE: Thank you.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR BOURNE: Further questions? Senator Foley.

SENATOR FOLEY: Dr. Crouse, I take it you have some familiarity with the research that the university is doing with fetal tissue.

DAVID CROUSE: Yes, I do.

SENATOR FOLEY: Can you bring us up to date on what's happening there? At one time we had heard that the university was kind of phasing out that line of reasoning...

DAVID CROUSE: It's not...I will answer, we're not phasing out the research. In fact, Dr. Gendleman (phonetic) and his

group and that's who you're talking about...I think everybody knows his name, have a very, very vigorous and active program. He is reducing the amount of fetal tissue being used and trying to move away from it. To the current point, however, there has not been a solution to the issue of the neuron problem and I'll call it a problem in that there are several types of cells within the brain that are derived from a common precursor, something like a stem cell but not...it's a little later. And not all those cells can be derived from adult tissues. They have a very active (inaudible) body, rapid autopsy program which takes people immediately after they've died with, of course, their prior consent and their family consent and tries to recover adult cells from them including the neurons. They've had success for most of the cell types but not with the neurons. They have gradually reduced the amount of material they have used and I'm sure we could provide you with specific figures if you'd like to see them.

SENATOR FOLEY: So there still is the importation of fetal tissue from...

DAVID CROUSE: Yes.

SENATOR FOLEY: ...was it Washington State that it was coming...

DAVID CROUSE: Still comes from Washington, the University of Washington which is the NIH-funded National Resource of Fetal Tissue. It's a nationally-funded resource that we tap into.

SENATOR FOLEY: All right. You heard me question some of the other testifiers, I think. I'm still puzzled by the shift in the university's policy position with respect...

DAVID CROUSE: Well, I won't try and dodge your question but you have Regent Miller coming up very shortly. And I would prefer to let him answer the question because he has firsthand knowledge of it.

SENATOR FOLEY: All right, that's fine.

SENATOR BOURNE: Further questions for Dr. Crouse? Doctor, something you said in your testimony piqued my interest and

you had talked about bans or proposed bans on transplantation and transfusion and you mentioned a few others. And those are areas now that as far as I know we're doing, and yet it appears to me, there's also regulations involved in that conduct. I'm concerned about an all-out ban. I'll tip my hand. What if we allowed this but regulated the heck out of it? Could government do that? Is that doable?

DAVID CROUSE: Most science supports that completely. Let me give you the international picture, it will set it in perspective. In that long list of countries that I gave you and it was about a dozen or 15, I've forgotten the exact number. In those countries they have national laws and regulations and some of them are very tight. In England they have the In Vitro Fertilization Authority which counts every embryo and determines what happens to every one of them. You have to be licensed and regulated. And they regulate very heavily how this research is conducted and they also support it with their national funding. Okay. In the United States, you can do nothing with federal funds save use those 21 cell lines that have been already produced. And you can do anything in the private sector. Most of us believe that regulation is a good thing. It's sometimes hard to manage in terms of drawing up the guidelines but just so you do know, there were guidelines in place immediately prior to President Bush taking office that would have managed and set up a series of guidelines for how embryonic stem cell research could be conducted in this country with federal funds and not be restricted to a limited number of cells. That was all in place to be started. It didn't happen with the change of administration.

SENATOR BOURNE: Thank you. Senator Friend.

SENATOR FRIEND: Thank you, Chairman Bourne. Dr. Crouse, based on a lot of the testimony especially coming from the direction of the University of Nebraska, I'm curious. Not much of it...a lot of the proponents, I guess, of LB 437 and LB 750 discussed the ethics of research. I haven't heard much of that from, I guess, the proponents of LB 580 or the opponents of LB 437 and LB 750 which leads me to this question. I'm curious, you mentioned a lot of other institutions, a lot of other academic institutions. The

state of California, two. Is it your opinion that there are things going on out there, outside of this state that are unethical? Research in either the fetal cell...well, let's keep it to the embryonic research area. Do you think that there's unethical research going on out there in these areas in this state?

DAVID CROUSE: I certainly hope that there's no unethical research going on out there. And certainly in California, with this $3 billion investment that they're making, they have a very strict set of regulatory oversight guidelines that are going to be imposed on the people who use that money to do embryonic stem cell research, to do somatic cell nuclear cloning. They're allowing it. But they do have a lot of hurdles to be jumped. It's not allowed for anybody. It's not allowed, except with strict oversight. And many of us support that kind of an action. We deal in the university environment with regulations and guidelines all the time. I have chaired or participated in the chairing of our institutional review board for human subjects research. I've chaired the animal care and use committee. I currently chair the chemical and radiation and safety committees and have oversight for the biosafety committee. So all of the regulatory committees I have a hand in. We have volumes and volumes of regulations which we adhere to very, very carefully and we can do that. It is a line drawn in the sand but it's one that does not prohibit all the research but rather regulates it.

SENATOR FRIEND: I guess the only reason I brought that up and when Senator Bourne was discussing the regulations and the way that government might be able to put their hands around it. Frankly, because testifiers walk up here and tell me that someone out in Berkeley or somebody at Harvard has an idea and they're working on something that is cutting-edge, the work out at Berkeley has not impressed me the last 30 years. Let's put it that way. In a lot of different areas, culturally, medically, whatever, there are a lot of people doing a lot of good work that doesn't come out of California and doesn't come out of Massachusetts. That led me to the questioning. I think there's unethical research going on out there. The proponents walk up and say, here's what's happening and I hadn't heard the folks from either, I don't care, scientific or spiritual standpoint from UNMC state their case or refute any of that.

I mean, it's more been you mentioned three times that one of the key elements with this was economic. (Laugh) This is not an economic driver, this whole issue to me, Doctor. And I guess I just more or less wondered...there are things happening out there that I'm very concerned about, not in this state. And I guess I wanted your opinion about whether you think that there is a line that can be crossed when it comes to embryonic research. So I would sum it up by asking you that question.

DAVID CROUSE: I think embryonic stem cell research can be regulated. The guidelines were drawn up by the National Institutes of Health in 1999. I would be happy to provide you with a copy of the guidelines that were available then which regulated it...

SENATOR FRIEND: But, I guess, what I'm saying, the line you feel...I mean, LB 580 helps draw those lines. I mean...

DAVID CROUSE: It eliminates it.

SENATOR FRIEND: Thank you.

SENATOR BOURNE: Further questions? Senator Pedersen.

SENATOR Dw. PEDERSEN: Just one more question. Thank you, Senator Bourne. Doctor, if these two bills would pass would that stop research at the university?

DAVID CROUSE: It won't stop research at the university. We're a big university. We do lots of things. We have many programs in many areas and I don't mean to claim that. I really don't. And I hope nobody thought that I meant that. That's not what it will do. But we are attempting to build areas in cutting-edge research topics. Stem cell research and the wide variety of diseases that are potentially treated by stem cell research, embryonic and adult. The adult side, we're currently doing that. The same people who are doing, by the way, the embryonic stem cell research are also adult stem cell researchers at the medical center. Those are not two different groups. the reason they are doing both is because they want to be able to compare them so they can see which kinds of cell types might be most effective in some diseases. And so that's why they're doing it. We don't know everything we need to know about the two

cell types. That's been said already so we need to do the research. It would have an impact in that the states that ban cloning, somatic cell nuclear transfer cloning are very few. And they're not exactly called research powerhouses like Arkansas. That's not a research powerhouse. South Dakota, North Dakota, those are not research powerhouses. They ban it because they don't do it. We would like to do it and we would like to have the opportunity for the university to establish guidelines that responsible scientists, responsible clinicians can draw some lines that the public is going to be aware of what they are and have the opportunity to do this kind of research.

SENATOR Dw. PEDERSEN: Doctor, wouldn't you be considered a powerhouse in certain areas like your bone marrow, your adult...

DAVID CROUSE: We absolutely are.

SENATOR Dw. PEDERSEN: ...stem cell bone marrow. You are a powerhouse in that, are you not?

DAVID CROUSE: Yes, we are.

SENATOR Dw. PEDERSEN: And it's brought a lot of recognition to you so maybe this is about we just have to get more and more power. I mean, we need to have a bigger and bigger school and...

DAVID CROUSE: As I said, the people who are doing the embryonic stem cell research with the approved cell lines are also adult stem cell researchers. One of them...well, actually, both of them have colleagues in the groups who affiliate with the stem cell transplant team, the adult stem cell transplant team because these people overlap. We always need basic scientists who can collaborate, cooperate, support, and build translational models that can be moved into the clinic. And the adult stem cell researchers, the transplanters, definitely we'd like to have more scientists with those kinds of interests, and scientists who do this kind of research are among the kinds of people we would like to not actively prevent from coming to the Medical Center.

SENATOR Dw. PEDERSEN: Doctor, I thank you for your testimony and especially your demeanor in giving us the

answers to questions that I've had.

DAVID CROUSE: Thank you, sir.

SENATOR Dw. PEDERSEN: Thank you much.

SENATOR BOURNE: Thank you. Further questions? Seeing none, thank you, Doctor. Appreciate your testimony.

DAVID CROUSE: Thank you.

SENATOR BOURNE: Next testifier, please.

MARK RENNER: (Exhibit 16) Good afternoon. My name is Mark Renner, R-e-n-n-e-r. I live at 21240 Arbor Court in Elkhorn, Nebraska. I am testifying in opposition to LB 437 and LB 750. I am going to speak to you regarding the negative economic impact that would result from the passing of these two bills. I am a graduate of the University of Nebraska-Lincoln with a bachelor of arts in economics. I'm a former board member of the Children's Theater in Omaha, the Omaha ballet, and the economic development committee of the Greater Omaha Chamber of Commerce. I am a past president of the Omaha area board of realtors and I'm a Leadership Omaha graduate. I have served on committees in our area discussing how we can attract some of the best people in the world to Nebraska. Many times those discussions centered not on how can we hire them but how can we get them on a plane to come to Omaha for an interview? It is the misconception of what Nebraska has to offer that has prevented, in the past, many a great candidate from coming to interview. In my role as a real estate broker with NP Dodge Real Estate in Omaha, I presently assist two hospitals and two universities in the recruiting of new physicians and professors to the Omaha area. I introduce them to our area and inform them what a great place it is to live and what a great place it is to raise their families. I am presented many a question about what is it like to live in Nebraska and quite often I am asked the question that they cannot ask their prospective employer, how does the community support UNMC and how is it thought of throughout our state? Presently, the answer to that question is very positive. I know the quality type of individuals being recruited to Nebraska. They are highly educated, upper income families that come from not only the United States

but from all over the world. One such family recently was a husband and wife, each with a Ph.D. They were living in the Netherlands and because of their impressive credentials they were interviewing all over the world. Their two final choices were Nebraska or Hong Kong. Nebraska won. These are the types of recruiting successes we are presently experiencing and we want them to continue. These families have a deeply-held belief in education and work ethic. They are the types of families which make a strong community. And because many of these families have countries of origin outside the United States, they add to the cultural and ethnic diversity of the community. The University of Nebraska is presently on the leading edge of the industries of the twenty-first century; namely, medical research and information technology. Having served on the board of directors of the economic development program for the Omaha Chamber of Commerce, I know what a delicate balance it is to keep our economy going forward and reaching full employment. We presently have a positive momentum in our community. Not only are we creating jobs but we are retaining those twenty-first century industries because Nebraska is open for business and people are welcome here. This momentum is adding a well-educated, above average income population and the need for additional space is resulting in a building boom creating many jobs for Nebraskans. Jobs such as contractors, engineers, carpenters, plumbers, electricians. These twenty-first century industries are providing opportunities for the young people of Nebraska, our best and brightest whom we are always striving to keep in our state and not lose them to other areas. Please vote against LB 437 and LB 750. Their passage sends a negative message that Nebraska is not open for business, thus disrupting the current economic momentum. UNMC is a vital economic engine of our state. Passage of these bills would severely damage their ability to recruit and their ability to retain many whom they presently have. As a result, everybody in Nebraska would be negatively impacted. Any questions?

SENATOR BOURNE: Thank you, Mr. Renner. Are there questions? Seeing none, thank you, appreciate your testimony. Next testifier, please.

ROBERT ARPKE: (Exhibit 17) Senator Bourne and members of the committee, my name is Robert Arpke, A-r-p-k-e. I'm

originally from Beatrice, Nebraska. I'm a fourth year graduate student at the University of Nebraska Medical Center in the department of biochemistry and molecular biology. My research focuses on how genes are delivered and the methods or approaches for enhancing that gene delivery strategy. I am currently the president of the Graduate Student Association at UNMC, but today I am speaking as an interested and concerned student in opposition to LB 750 and LB 437. Toward the end of high school I realized that I wanted to work toward a career in science with the hope of eventually conducting gene therapy research. As I neared completion of college and began looking at graduate schools at which to pursue graduate education in biomedical science I looked at programs at many universities. Factors went into my decision about where to obtain my graduate education included the quality of the program; the quality of the faculty's research; availability of funding for graduate education; as well as location of the school. The most important factor was the type of research being conducted by the faculty within the department or program. Potential graduate students must ask themselves whether their research interests are like those of the faculty in the department to which they are applying. Students pursuing graduate education in biomedical sciences look for both intellectually stimulating research as well as new, cutting-edge research in areas with promising potential therapeutic value. One of these promising new areas of research is stem cell research. Stem cells show potential in many different areas of health and medical research. While I have been at UNMC, great strides have been made toward the goal of the University of Nebraska Medical Center becoming a world-class research institution. This includes recruitment of outstanding faculty as well as enhanced recruitment of outstanding undergraduate students not only from the state of Nebraska but from all over the world. In order to continue the momentum that UNMC has already established, talented researchers currently at UNMC who have a desire and passion to study embryonic stem cells because they believe in the potential therapeutic value that could be obtained from this research must be allowed to continue their work at UNMC. Otherwise, the university will miss out on a huge area of biomedical research. A ban on human embryonic stem cell research in the state of Nebraska will cause these outstanding researchers to find positions elsewhere where they are allowed to conduct this type of

research. Concurrently, outstanding undergraduate students interested in embryonic stem cell research will follow these researchers to other states and institutions. Currently, many questions about the potential therapeutic value of embryonic stem cells are unanswered. Only if scientists are able to address these questions through their research will we truly understand the potential therapeutic value of embryonic stem cells. Since beginning my graduate education at UNMC in the fall of 2001, I have had the opportunity to realize my dream of doing gene therapy research as I am currently involved in research on a gene delivery strategy. Somewhere in Nebraska right now, a high school student has aspirations to perform embryonic stem cell research. These two bills, LB 750 and LB 437, have the potential to impact the interest and ability of this student and other students will have of obtaining their graduate education in the state of Nebraska. Don't deny Nebraska students the opportunity to realize their dreams of graduate education and to research embryonic stem cells within the state of Nebraska. Don't cause talented, educated Nebraskans to leave the state of Nebraska in order to pursue their dreams of a graduate education as well as stem cell research. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Arpke? Thank you very much. Next testifier.

SARAH KEIM: (Exhibit 18) My name is Sarah Keim, K-e-i-m and I am opposed to bills 750 and 437. My name is Sarah Keim and I am originally from Chadron, Nebraska. I am a second-year graduate student at the University of Nebraska Medical Center and the vice president of the Graduate Student Association. My research at the medical center involves cancer and how it spreads throughout the body. I also completed a rotation where I worked with stem cells found in the blood. I am here today as a concerned student and I am greatly opposed to bills LB 750 and LB 437. I was first introduced to the University of Nebraska Medical Center in high school. I had always dreamed of doing something science related and I applied to the Rural Health Opportunities Program, also known as RHOP through UNMC. Because I did well in school the RHOP program guaranteed me a spot in the medical technology program at the medical center once I had completed my undergraduate requirements at Chadron State College. Once I started my training at UNMC, I realized what a world-class medical center this really is.

The research they do at the medical center is among the best in the country. After working for two years in a hospital, I decided to come back and pursue a Ph.D. One of the reasons I came to UNMC was the possibility of doing stem cell research. The other major reason was because of the quality of people who do research at UNMC. Stem cell research has the potential to treat a variety of diseases such as Parkinson's, heart disease, and diabetes. By passing bills LB 750 and LB 437, we are denying Nebraskans the opportunity to be pioneers in the development of potential therapy. These bills will deter Nebraskans from making contributions to enhance the world of medicine and will hinder the development of the University of Nebraska to grow and compete at the international level. Prohibiting the use of stem cells for research and cloning procedures inhibits the influx of prospective medical investigators to Nebraska. Excellent medical researchers will be inclined to go to alternative locations where stem cell research is not prohibited. This will also affect the number of students coming to Nebraska to enroll at the university. Students wanting to pursue cutting-edge research will be unable to fulfill their educational dreams in the state of Nebraska. I came to the University of Nebraska Medical Center because of the opportunities provided in the field of stem cell research and the prospect of making contributions to this growing field. It is disappointing to me to see that these kinds of potential opportunities to treat disease being abolished in Nebraska by the passing of LB 750 and LB 437. I ask that you consider the great potential of stem cell research and stop the passage of these two bills. It is our obligation as a people and as a state to ethically and morally use our best knowledge to enhance the quality of life for the citizens of Nebraska and others worldwide. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Keim? Seeing none, thank you. Appreciate your testimony. Next testifier? We're working on about 12 or 13 minutes.

DREW MILLER: I'm University of Nebraska Regent, Drew Miller, and I'm here to testify against LB 750 and LB 437 and I personally am very much for your bill, Senator Johnson, and I commend you for it. Like most Nebraskans and a lot of elected officials, I'm a pro-life person and I'm

also for fetal tissue and stem cell research like Senator Orrin Hatch from Utah and my personal favorite, John McCain from Arizona. Indeed, I don't see how you can really be pro-life and be against research like this that in no way causes, promotes, or condones abortions, does not produce embryos for research but merely takes tissue that would otherwise be destroyed and uses it to save lives. I am going to address some moral issues here and to me they're very, very clear. The moral thing to do is exactly what we're doing at the Med Center with all the research going on here today. The question that our researchers face at the Med Center has nothing to do with an abortion decision, has nothing to do with producing embryos for reproduction which is the source of these right now. Our question is limited to, do we take tissue that is otherwise going to be destroyed as medical waste and do we use it for research that could save lives and cure disease? That's our moral decision. We don't get involved in Roe v. Wade or abortion decisions. We don't get involved in reproductive creation of embryos for fertilization. We're not doing in vitro fertilization and trying to create that here. And we're certainly not doing a lot of the stuff I heard earlier in testimony about trying to clone people to create human life and a lot of the other silliness that was made earlier. For people who spent a lot of time studying these issues as I have and for people who are misled, unfortunately, a lot of times by "pro-life groups" sometimes you're led to believe that our researchers are evil people. I personally have been compared to Dr. Mingulay with right to life exhibits at the State Fair and some of our research had been protested, even attending funerals by people who claim to be pro-life and really are just using our research as an excuse to raise interests in their cause and, in my opinion, pursue a very immoral course of action in attacking research that can save lives. It may be easier for me to be very much in favor of this research because my dad is diabetic and my daughter, 10 years old, I care very much about her future welfare and there's no way in the world I would ever support research bans like these being considered here today that could affect her quality of life. And it's not just a religious issue; it's not a case where there's one religion, the Catholic religion saying you can't pursue this. I'm going to quote to you and I'm just going to read direct quotes from this article published in the World-Herald in February of '04 titled Catholic University Confronts Abortion Issue.

Now I'm quoting here directly, "Scientists at Georgetown, a Catholic university were doing research using cells derived from aborted fetuses. Georgetown has decided to let these researchers continue their work." The Reverend Kevin Fitzgerald, a university bioethicist, said he reasoned that the scientists should not be forced to abandon potentially life-saving studies or risk forfeiting grants. The benefits to society he said far outweigh the harm done using the cells because the abortions were not performed for the purpose of providing the cells to scientists. John Haas, president of the National Catholic Bioethics Center in Boston, "I don't see the moral difficulty in using these cell lines because you're not contributing in any way to the abortions." These are Catholic people saying this, bioethicists. It's being conducted in Catholic universities in the United States. You heard from a leading ethicist the other day, conducting both adult and embryonic stem cell research, a Catholic person doing work at Catholic universities. This is not research that in any way offends any religion. A state senator who says that he's trying to stop this research, an informed point I want to make here, is really not telling you the truth. You cannot stop this research. None of us can. The research grants don't go our administrators. They don't go to me as a regent and they certainly don't go to you as the state senator of the state. The research grants from the NIH go to the researchers and they can take them wherever they want and they do this fairly often. And if you pass any bill trying to stop them you're not going to stop the research. All you're going to do is transfer hundreds of millions of dollars of federal research grants from Nebraska over to Iowa or to Georgetown University. Indeed, I believe that Senator Smith should rename his bill, to be honest, the Adrian Smith Send Federal Dollars and University of Nebraska Faculty to Georgetown or Iowa bill. That's the real effect. I'm going to disagree some more with Dr. Crouse. Earlier you asked him, would this affect other research? I don't believe it's just a case where you can ban one research and just those researchers go. As a matter of fact, I'm sure you're going to lose a lot more because faculty, whether they're doing research or not will not put up with politicians whether they be regents or state senators telling them what they can and cannot do in research. They won't tolerate it. The UNL-Lincoln academic senate passed a resolution backing UNMC on fetal tissue research. They do not want to see any state

attempt to ban what they can do for political or religious or vote-gaining reasons and they won't put up with it. You will lose not just the researchers directly affected, you will lose other medical researchers at the Med Center and you will even lose teaching faculty who will not put up with this kind of thing. It's not just going to be our recruiting that's going to be damaged. It will be but we'll have trouble retaining some of our other faculty who won't put up with this kind of interference and certainly won't put up for reasons that a lot of us would consider immoral trying to stop this. Someone asked earlier about, you know, what's the standard? Where are you going to draw the line? By some of the criteria I've heard spelled out here today, birth control is an illegal abortion by the standards you have made. The pill and a lot of standard birth control that none of you seem to want to ban here does produce fertilized eggs and they do get destroyed. So by the standards I've heard some of the people for these bills espousing, that's immoral and that's destroying life. Yet I don't hear you trying to outlaw that. Why aren't you trying to outlaw in vitro fertilization and helping people do reproduction for childless couples? I mean, if you really believe this is evil don't just attack the Med Center. Have the honesty to outlaw birth control that does the same thing in terms of the ultimate outcome to a fertilized egg and do the same thing to people trying to have...childless couples trying to reproduce if you going to try to ban that. The other thing I would say to you and I said this, testified now three years. For people who think that it's immoral to do what we do at the Med Center, I think you have an obligation to go to the lady whose life was saved by fetal tissue research done at the Med Center and tell her and tell her family that it was immoral for us to save her life by the research we did, that it would have been better off if she would have died so that that fetal tissue could have been incinerated. If that's your view of morality, I'm afraid I don't share it and I have no trouble whatsoever in saving, I am very proud of the research performed at the Med Center and I'm ashamed of people who would somehow think that it's better to ban this research so perhaps it will help them get an endorsement by some of the folks sitting behind me with their pro-life voter guise. I hope none of you feel that way because that's not my idea of morality and, hopefully, it's not yours either. Be happy to answer your questions now. I could use some water if you've got

some.

SENATOR BOURNE: Are there questions for Regent Miller? Senator Foley.

SENATOR FOLEY: Regent Miller, are you testifying today on behalf of the Board of Regents?

DREW MILLER: I'm testifying on my own as a member regent. For example, I'll answer your question you've been asking all day.

SENATOR FOLEY: Please.

DREW MILLER: The votes we've taken were, first of all, on fetal tissue research. That was originally an 11-0 vote. Regent Wilson was absent. The one regent meeting he missed in his entire life. When he came back he had the minutes amended to make it a unanimous 12-0 vote for fetal tissue research. Then President Smith formed a bioethics committee. That's what covered the stem cell research issues. We had our own bioethics committee which, by the way, has put on restrictions and standards that are really stricter than a lot of the federal guidelines. That, again, came back to the board and that passed. I don't know if it was unanimously, I think it was. If anyone recalls in the back but that's what the Board of Regents approved again. This was probably about four or five years ago that said, we could pursue stem cell research at some time. You'd have to go through the bioethics committee and you have to follow all the federal guidelines so that's where we are right now and that's the board's position. In terms of how we do testifying from year to year, that's been evolving over the past two years because of other issues, frankly. I just...I was attacking Senator Smith there behind me on this bill but was actually supporting him, I believe, on a bill recently. And the Board of Regents in the last couple of years has been trying to say to our lobbyists over here and to our officials that you cannot testify in a bill if a regent raises an objection to it and says you've got to come to the full board for approval. So how they decide what they want the lobby for has kind of been changing over the past couple of years and there's so many bills up here that we could have an interest in. Sometimes they lobby on and sometimes they don't. It has to deal with all kinds of issues that I

don't get involved in. But recently there have been some restrictions added so that's why I'm being very careful to say, I as an individual am saying I'm for Senator Johnson's bill. The Board of Regents has not taken a stand on his specific bill so there I'm only speaking on my own behalf.

SENATOR FOLEY: I think you've acknowledged that the university did not oppose LB 602 last session.

DREW MILLER: My recollection is we strongly opposed it. Now whether or not we came over here and actually lobbied for it, I don't know.

SENATOR FOLEY: I think the testimony was in a neutral capacity on that bill if my memory serves me.

DREW MILLER: Yeah, but a lot of times someone may sign in for a neutral vote...for example, again, we're getting back to this, I won't say it in the politically correct term but instate tuition for illegal aliens. I realize that's not the politically correct way to phrase it but on that bill, I think the university, you know, is a question I tried to pin him down in our session just at the last meeting. Are you going to be neutral or for? And the answer is, well, we're not really sure. We want to make it clear that on that bill they're saying, we are for in-state intuition on educational grounds but we're saying we're not taking a stand on the federal immigration policies. A lot of the concerns I have and Senator Smith has so, so...

SENATOR FOLEY: Was there...

DREW MILLER: ...it's not really clear. We don't really sit down and say, okay, for this bill, you can do this. On this thing, we don't really take votes like that so it's kind of unclear.

SENATOR FOLEY: You mentioned that there were some votes taken on some other issues in the past.

DREW MILLER: On the immigration bill, that is the one within the past two years where I specifically got a resolution passed that said they could not lobby until they got formal board approval which they did at the last meeting.

SENATOR FOLEY: Were LBs 437 and 750 discussed at the most recent meeting of the Board of Regents?

DREW MILLER: Not at the most recent meeting. There was a memo that came out recently by President Smith that outlined that. And I'm sure they can get a copy to you. Copies here? Yeah, we just had a memo that came out on that that did explain to the board how they were going to do, in case, against these two and just neutral on this other one because the board hadn't had time to go over the specifics of Senator Johnson's bill.

SENATOR FOLEY: Perhaps that can be provided to the committee.

DREW MILLER: Yes, I think we can. I'm sure we can.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Further questions for Regent Miller? Senator Pedersen.

SENATOR Dw. PEDERSEN: Not necessarily a question, Regent Miller. But I need to make a statement here. I, too, am very proud of the University of Nebraska and especially the Medical Center and what they've done. And the people I have met there are just committed to really saving lives. There's no doubt. And anything they've done especially in that bone marrow transplant thing. But I resent the fact of you coming in here and lecturing to us and giving me the impression of being so arrogant if my own decisions and my own feelings are not considered. That's only a statement. Thank you.

DREW MILLER: Yes, I'm happy to respond to that. I believe actually you were making the point earlier...

SENATOR Dw. PEDERSEN: No response asked for. Thank you.

DREW MILLER: Okay.

SENATOR BOURNE: Further questions? Regent Miller, I'm going to express disappointment that you're not running again and that you're leaving politics. Hopefully, you will

run for something in the future. I've always admired your work. Thank you.

DREW MILLER: Thank you. I plan to be campaigning for pro-research candidates in the next cycle.

SENATOR BOURNE: Next testifier.

SANFORD GOODMAN: Thank you, Chairman Bourne, Senators. My name is Sanford Goodman, S-a-n-f-o-r-d, last name, G-o-o-d-m-a-n. I'm Chair of the Public Policy and Advocacy Committee for Nebraskans for Research. I've been here also for the last three years as have many of the previous testifiers. I'd like to start off by setting a couple of things straight for the record. A number of people have made reference to a UN treaty as it was referred to. In fact, during the past couple of years there was a proposal put before the United Nations backed by the United States by the Bush administration that would have mandated a comprehensive cloning ban and would have had the force of international law. Well, the fact is, just a week or so ago in the face of very, very strong opposition from many, many of the developed countries who are involved in this research, that proposal was very much worded down and did not make it out of the committee and before the General Assembly passed as essentially an effectively toothless guideline or recommendation. So there is no such U.N. proposed ban on comprehensive cloning. Secondly, I'd just like to comment and note something with respect to Dr. Louis Safranek's previous testimony where he made the statement that embryonic stem cells have been known for 20 years in mice but adult cells only for the last ten and mainly even the last five years. Well, I was a little mystified when later he stated that UNMC had been utilizing adult stem cells in human therapies for 20 years. Now that certainly implies that knowledge of human adult stem cells preceded that first clinical use by many, many years as well. The fact is, the case is the opposite of what was described and that human adult stem cells have been known and studied for much longer than human embryonic stem cells. In fact, human embryonic stem cells were first arrived only in 1998 and since then have had much less funding than adult stem cell research. And I would note also that, frankly, it is nothing short of irresponsibly deceitful to make the argument against human embryonic stem cell research by

pointing to the absence of current clinical applications because of the fact that knowledge of human embryonic stem cells is so recent as compared to adult stem cells. And, in fact, this point was made very clearly last Tuesday when some of the senators here and others had the opportunity to hear a briefing by one of the world's leading stem cell researchers whose own lab focuses on adult stem cell research, Dr. Catherine Verfaillie, director of the Stem Cell Institute at the University of Minnesota. She very clearly and forcefully laid out the case why adult stem cell research is not sufficient despite what others have said here today and does not provide the same opportunity based on our current level of knowledge as embryonic stem cell research does. Our current level of knowledge suggests that embryonic stem cell research will be more promising going forward. It was very interesting to hear her presentation because it helped me put what's going on in this field in a much more complete perspective. Others before me and Dr. Crouse, in particular, have described the various venues where human embryonic stem cell research is taking place today of Singapore, Korea, China, Japan, Belgium, the U.K., Switzerland, on and on around the world. Here in the United States, as we've heard, California with its major program and the other states who are pursuing this research. And what Dr. Verfaillie pointed out was why this is happening. It's happening because there's been a confluence of two major developments in human biology and scientific knowledge that have come together here in the last few years. The first was the derivation of human embryonic stem cells that I previously described in 1998 where there had been knowledge of embryonic stem cells in the mouse model, again, as Dr. Rosenquist and others have alluded to, for 20 years. But they were only derived and promulgated in culture in 1998. But the other major event that many of you are aware of because it's been widely reported is the completion of the sequencing of the human genome project. And the reason that these two developments are so important coming together as Dr. Verfaillie described it is because with the opportunity to study embryonic stem cells in culture, we're able to with the knowledge derived from the human genome project specifically identify which genes are involved as the embryonic stem cells develop into the particular types of cells into which they develop...heart, muscle, blood, brain, on and on. And it is through that knowledge and understanding that Dr. Verfaillie and other scientists

believe that we'll develop the knowledge of human biology to the point where by understanding which genes are activated and turn off at certain times we may get to the point where we can find drugs or other means to turn some of these genes back on so that we don't need to transplant cells whether adult embryonic back into humans to repair the various diseases and the like and otherwise may be able to come up with more direct interventions just like we come up with drugs and other molecules today. And let's, you know, in this way, in fact, we would hope to avoid the potential exploitation of women through creating a massive demand for human eggs where if you had only a strictly transplant approach to therapy. The fact of the matter is, that this is the future of medicine. We're not just talking about getting some research dollars or what's going to happen with a particular researcher in a particular lab at the University of Nebraska or Creighton or any other institution. This is a C-change in medicine and a C-change in our understanding of human biology. And it is the future of medicine. In fact, I like to use the analogy and, you know, we won't know until we know 50 years from now but I fully expect we'll look back 50 years from now and view these developments with respect to medical research as we look back 50 years at the invention of the transistor and its impact on electronics and impact on our lives. The other major aspect of all this gets to some of the broader questions about ethics that have been raised. So why are all the researchers so excited about having the opportunity to pursue these major developments? Well, you know, it's the same reason that, you know, we've had since the dawn of human consciousness, frankly. And that is that we have the opportunity to advance our self awareness, our self understanding, the knowledge of our environment. And, in fact, people have talked about human dignity. Well, what is it? What is it about us that make us human? What gives us dignity as human beings? What makes us special and different? Well, it is the fact that we have this self awareness and that we have this self knowledge. And certainly we see many courageous people here today with various afflictions and how we bear up under those afflictions in adverse circumstances speaks strongly to human dignity. But the fact is that we are human because of the fact that we are self aware. And when reference was made to Chief Standing Bear, he was able to come before and argue for his humanity. It's been raised, what is the moral

status? What is the moral choice? What is the ethic involved? Well, the choice we do have and it is a moral choice. And the other side is, frankly, spend a lot of time trying to make scientific arguments about adult stem cells and the like that, frankly, you know, are not valid but it is a moral choice. And the moral choice is between how we treat unenabled human embryos, human embryos that will not become living, breathing human beings and how we treat living, suffering human beings. So I would just say that as we stand here today debating whether Nebraska and Nebraska institutions will have the opportunity to participate fully in this ennobling human task of self knowledge, self discovery and self healing, we need to realize that we can no more stop this grand human journey than we can make the sun revolve around the earth. Thank you.

SENATOR BOURNE: Thank you. Are there questions? Senator Foley.

SENATOR FOLEY: Mr. Goodman, you're the director of a group called Nebraskans For Research. Has that group...is that correct?

SANFORD GOODMAN: I'm the Chair of the Public Policy and Advocacy Committee.

SENATOR FOLEY: Okay, fine. Has that group taken a formal position in support of LB 580?

SANFORD GOODMAN: We support LB 580.

SENATOR FOLEY: Any reservations about the bill?

SANFORD GOODMAN: In which respect do you ask that question?

SENATOR FOLEY: Do you support it wholeheartedly or do you have some concerns or reservations in your support of the bill?

SANFORD GOODMAN: One can make an argument and there is legal analysis that I could provide to you if you'd like to see it that would suggest that current FDA regulations already effectively ban human reproductive cloning so only with respect to the fact that current regulations already prevent such a ban...

SENATOR FOLEY: The bill provides that...

SANFORD GOODMAN: ...would there be an objection.

SENATOR FOLEY: ...the creation of an..., what's referred to in the bill as an unfertilized blastocyst may be developed and nurtured for up to 14 days but no longer. If a medical researcher were to develop one, nurture it for 15 days that would be a violation of law. That person could be subject to criminal prosecution.

SANFORD GOODMAN: That's correct.

SENATOR FOLEY: And you support that.

SANFORD GOODMAN: Now it does exclude the time under which it would be frozen and I don't have the particular bill in front of me but that excludes that time.

SENATOR FOLEY: But if medical research were to develop one of these beyond 14 days, that would be a violation of criminal law and that person could be prosecuted. I take it you support that.

SANFORD GOODMAN: That is...we support the bill.

SENATOR FOLEY: That's how the bill reads.

SANFORD GOODMAN: That's how the bill reads.

SENATOR FOLEY: And you support that.

SANFORD GOODMAN: As I said, my only reservation is that current regulation may already be sufficient to govern human reproductive cloning.

SENATOR FOLEY: I don't think you responded to my question.

SANFORD GOODMAN: I support the bill. I did respond to your question.

SENATOR FOLEY: All right, fine.

SENATOR BOURNE: Are there further questions? Seeing none,

thank you.

SANFORD GOODMAN: Thank you.

SENATOR BOURNE: The committee is going to take a ten-minute recess and when we come back we will hear neutral testimony on either or any of the three bills and then we'll have a closing from the three senators. Ten-minute recess. Thanks.

RECESS:

SENATOR BOURNE: (inaudible) reconvene. I think we have maybe a neutral testifier or two and then we'll have the close from Senator Smith, Senator Foley, and Senator Johnson. So are there neutral testifiers? Mr. Hedrick, welcome.

RICHARD HEDRICK: My name is Richard Hedrick, H-e-d-r-i-c-k. All arguments have been based on human life. Sounds great on first blush. Bush's position was mentioned. Clinton was also mentioned. There has not been any mention of the responsibility of taking care of the living through healthcare. To take care of the living we will need more doctors, nurses, and other medical professions. No proposals for this. There has been no mention of natural abortions due to poor healthcare. Natural abortions could be prevented if there was healthcare for all pregnant women. Bush has not proposed any program for the healthcare of the citizens. Clinton's did have a healthcare program which was shot down by the Grand Old Party. There was a program on C-Span interviewing a U.N. general. The general was in Africa trying with a few soldiers and no ammunition to stop genocide. Forty-five countries, one of which was the United States promised ammunition. No ammunition came. The slaughter, over one million killed. If they had had...Chambers would have had, said that it was the wrong color. (inaudible) O'Reilly factor which is known to be far right on a recent program was discussing the fact that some people are in hospitals for treatments who cannot pay the bill. O'Reilly and a few e-mails concluded that if people cannot pay the bill they should not go to the hospital. This proves that the factor to the right...this proves color is not the factor for the right. Bush claims to be a Christian. Bush does not follow Christ's teaching.

Christ's teaching should be followed. Do not pick out what you want to follow. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Hedrick? Seeing none, thank you. Next testifier in a neutral capacity? Welcome.

PAULA TURPEN: Good afternoon. Mr. Chairman and members of the Judiciary Committee, my name is Paula Turpen and I serve as director of research resources at UNMC. I earned my degree from Penn State studying the development of the immune system and frog embryos so I know a little bit about embryology. The issue of human cloning has been the subject of public debate since 1997 when the cloned sheep, Dolly, was born, making the birth of a human clone a real possibility. Recently, the debate has included the topic of human stem cell research because experimentation is proposed which uses the procedure known as nuclear transplantation or somatic cell nuclear transfer that was pioneered by the scientist who produced Dolly. The product of nuclear transplantation has the potential to develop into a complete organism if implanted into a uterus. This organism would be genetically identical to the adult that supplied the nuclear DNA and therefore this process is called reproductive cloning. It is an extremely difficult process and inefficient and mounting evidence indicates that the rare organisms created this way always develop health problems. That is, very few whole organisms are born live so the best way to get a normal healthy organism is still the old-fashioned way, by union of egg of sperm. No credible scientist in the world would support reproductive cloning of humans. If the product of nuclear transplantation is grown in a dish for up to 14 days, it produces embryonic stem cells. Longer than this, the stem cells are no longer able to be harvested. Scientists believe that research on human embryonic stem cells could lead to new cures for many diseases. The use of nuclear transplantation to produce human stem cells is often referred to as research cloning or therapeutic cloning. Since tissues created by therapeutic cloning would have the same genetic makeup as the patient some scientists believe they could be transplanted without the risk of rejection. While we are sympathetic to the intent of legislation that criminalizes nuclear transplantation for reproductive purposes, legislation that prohibits therapeutic cloning is restrictive to scientific

research. The introduction of LB 580 provides an opportunity to clarify the distinction between therapeutic and reproductive cloning often clouded by opponents of nuclear transplantation. LB 580 would prohibit reproductive cloning but allow nuclear transplantation research to go forward. It would impose criminal penalties on anyone who attempts to implant the product of nuclear transplantation into a woman's uterus. Proponents of a ban on all nuclear transplantation argue that human embryos should be afforded a moral status similar to human beings and should not be destroyed even during the course of research. They also fear that if nuclear transplantation is allowed it will open the door to reproductive cloning because a ban on implantation would be difficult to enforce. The second point of view is endorsed by a coalition of environmental, women's health, and bioethics groups who are not unalterably opposed to nuclear transplantation but they believe that it should not be permitted until strict regulations are in place. Rather than legislation, perhaps now is the time scientists should be called upon to participate in the discussion of such regulation or be trusted to regulate themselves. Proponents of a ban on only reproductive cloning argue that the moral status of a human embryo is less than that of a full human being and must be weighed against the potential cures that could be produced by research using nuclear transplantation. They contend that a ban on implantation would be no more difficult to enforce than a ban on nuclear transplantation itself. They argue further that criminalizing scientific research which has been done only very rarely in the past would set a bad precedent. Criminalization of scientific research creates an environment hostile to innovation. The economic impact of such an environment should be considered carefully. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Dr. Turpen? And just for clarity, Doctor, are you testifying in a neutral capacity on all the bills or just LB 580?

PAULA TURPEN: Just LB 580.

SENATOR BOURNE: Okay. Any further questions? Seeing none, thank you, appreciate your testimony. Are there further neutral testifiers? Senator Smith, to close on LB 437.

SENATOR SMITH: Thank you, Mr. Chairman, members. I really believe that this has been a productive, about at least 95 percent of it has been productive (laugh) testimony and I won't elaborate on that 5 percent. I think this is a relevant discussion, policy decision that we need to make. And I look forward to continuing to work on the issue. I still think that we have many questions of ethics that remain unanswered. And there seems to be even some indecision as to LB 580 and its appropriateness for regulation and I won't elaborate any further. Thank you, Mr. Chairman. Any questions?

SENATOR BOURNE: Thank you. Are there questions for Senator Smith? Seeing none, thank you. That will conclude the hearing on LB 437. Senator Foley to close on LB 750.

SENATOR FOLEY: Thank you, again, Chairman Bourne and thank you for the hearing this afternoon. I think it was very constructive and civil. We heard some conflicting testimony as to what the United Nations did or did not do with respect to a declaration on human cloning. During the break I was provided with an Internet news story. This is from USA Info.state.gov. It's a news story dated two days ago, March 8, 2005, and I'll read you one sentence of the news item. It says the 191-nation assembly adopted the declaration March 8 by a vote of 84 to 34 with 37 abstentions and 36 absentees. The declaration that they're referring to is the declaration that did, indeed, call for the ban of all forms of human cloning and that's made very clear in the article. Thank you, Chairman Bourne.

SENATOR BOURNE: Thank you. Are there questions for Senator Foley? Seeing none, thank you. That will conclude the hearing on LB 750. Senator Johnson to close on LB 580.

SENATOR JOHNSON: Senator Bourne, members of the committee. At the break several of us commented that what a wonderful discussion we've had this afternoon. I think we've been treated to really quite an education about, and I'm really referring to both sides here presenting the issue as they saw it and I thought did it very well. I don't want to talk very long here but I guess the...I'm going to shorten it to this aspect. You know, we're usually all of us are the products of our life's experiences. All of us grow up in a

different way, have different experiences. Senator Foley and I talked at the break. I think it's probably a safe or fair statement to say that the opponents of my way of looking at things look in this petri dish of cells and see a human being. What have been my experiences? I remember in high school a friend going home from school on Friday, developing polio and never coming back. Another one who came back paralyzed for life. I remember that polio was cured when the polio virus was isolated using fetal cells in the culture medium. This won the Nobel Prize in 1954. I remember the blind person with diabetes that I had to cut the leg off of. I remember my friend, high school valedictorian, grandmother at age 60, couldn't tell you the names of her grandchildren. When I look in the petri dish I see hope for cures of there terrible maladies. To close, let me tell you kind of where I stand from a moral or religious standpoint. You all know the story. A man went down from Jerusalem to Jericho, was attacked, beaten, robbed, left half dead. First a priest, then a Levite came by and passed on the other side. Interestingly enough, we now call him the Good Samaritan, showed up. In his day he was a second-class citizen, not respected at all. What did he do? Cared for the person at the scene, took him to the inn, cared for him there, and when he left, left money with the innkeeper to take care of him after he left. At the end of the day, what I have to ask myself is in our rush to Jericho, if it's not acceptable to pass on the other side of the road. Is it then not inexcusable to stop and keep others from helping the sick, the injured, and the suffering? Thank you.

SENATOR BOURNE: Thank you. Are there questions for Dr. Johnson? Seeing none, thank you. That will conclude the hearing on LB 580.

LB 752

SENATOR BOURNE: Senator Foley, to open on LB 752. Can I have a show of hands before Senator Foley starts of those here to testify in support in LB 752? I see one, two, three...I see four. Those here in opposition? I see one. Those in a neutral capacity? I see none. Senator Foley, to open.

SENATOR FOLEY: (Exhibit 19) Thank you, Chairman Bourne. Members of the Committee, for the record, my name is Mike Foley. I represent District 29, here to open today on LB 752. It has been the law in Nebraska for well over a decade now that prior to the performance of an abortion, the mother of the child must be told at least 24 hours before the procedure of the medical risks associated with the particular type of abortion that is to be performed. She must also be told the probable gestational age of the unborn child, the name of the physician who performed the abortion, and be told that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that the father of the child is liable to assist in the support of the child. She also has the right to review a printed booklet prepared by the Nebraska Department of Health and Human Services that describes the development of unborn children at various stages of development. LB 752 before you amends these informed consent requirements that have been on our books for over a decade by further providing that in those instances where the probable gestational age of the unborn child is 20 weeks or older that the mother of the child be informed that the unborn child can experience pain at that stage of development and that she has the option of having anesthesia or other pain-reducing drugs administered directly to the child if she so desires. The bill also requires that the informational booklet that I mentioned earlier be revised to include the fetal pain information. The language of the bill also states that nothing in the legislation shall be construed to impede an abortion provider from offering his or her evaluation of the capacity of the unborn child to experience pain. The body of medical literature on this subject is ever growing, with more and more conclusive documentation on the ability of the unborn child to experience pain in the later stages of prenatal development. Dr. Paul Ranalli, a neurologist at the University of Toronto, has stated, and I quote: At 20 weeks the fetal brain has the full complement of brain cells present in adulthood, ready and willing to receive pain signals from the body, and their electrical activity can be recorded by standard electroencephalography, EEG. Dr. Robert White, a professor of neurosurgery at Case Western Reserve University, has stated that an unborn child at 10 weeks...20 weeks gestation or older is fully capable of experiencing pain. He goes on to say that abortion at the later stages

is a dreadfully painful experience for any infant subjected to such a surgical procedure. There is a considerable body of law at the federal level, such as the Humane Slaughter Act and the Animal Welfare Act, that provide that the transportation, care, or slaughtering of animals is to be conducted in such a way as to minimize pain experienced by animals. These federal laws are supplemented by additional statutes or regulations enacted by the states, including Nebraska. See, for example, Nebraska Revised Code Section 28-1008. If we can enact statutes minimizing pain for animals about to be slaughtered, then certainly we can at least inform women that unborn children in the later stages of pregnancy can experience pain. There are now very prestigious schools of medicine in the United States and around the world, such as Vanderbilt University in Tennessee, and the University of California in San Francisco, where surgical specializations are developing on procedures performed on unborn children while the children are still in utero. These remarkable advances in medicine are providing extraordinary benefits for the children who are the subject of the surgery, and are enabling these children to have a higher quality of life as a result. It is standard medical procedure in these instances that anesthesia is administered to the mother and directly to the unborn child prior to the performance of such surgeries. There are now medical textbooks that instruct medical students in the proper practice and procedure for the administration of anesthesia to unborn children prior to surgeries performed on them. The bill before you is patterned after similar legislation now under consideration before the U.S. Congress, as well as legislation that has been enacted in other states. These bills and statutes recognize the truth regarding the physical development of unborn children; namely, that at 20 weeks gestation or older, the child's pain receptors--spinal cord, nerve tracks, brain thalamus and cortex--are all in place and that all anatomical links needed for pain transmission to the brain are present and functional. In 2003, the U.S. Congress enacted a statute banning the so-called partial-birth abortion procedure. Immediately after that bill was signed into law, the statute was challenged in federal courts in New York, California, and Nebraska. The trial in New York was heard by federal district Judge Richard Casey. One of the testifiers in the trial was a medical doctor who had observed partial-birth

abortions and was a proponent of the practice. I'd like to read just one paragraph of the court transcript from that trial. In describing how a partial-birth abortion is performed, the doctor at trial stated, and I quote: They deliver the fetus intact until the head was lodged in the cervix. Then they watch...they they reached up and crushed it. They use forceps to crush the skull. Judge Casey: Like a cracker they use to crack a lobster shell? Response: Like an end of tongs they use to pick up a salad, except they're thick enough and heavy enough to crush the skull. Judge Casey: Except in this case you're not picking up a salad; you're crushing the baby's skull. The fetus is still alive at this point. Response: Yes, sir. Judge Casey: Were the feet moving? Response: Yes, sir, until the skull was crushed. Colleagues, I'd submit to you that it's just common sense that an unborn child at that stage of gestation and beyond can indeed feel pain. We ought to enact a law that allows women to be informed of this information. I'd ask for favorable consideration of LB 752. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Senator Foley? Seeing none, thank you. First testifier in support. Oh, my committee clerk reminded me, we are back to our usual time limits. (Laughter)

SENATOR COMBS: Party on.

SENATOR BOURNE: I did make that clear at the beginning of the day, so each testifier will have three minutes...

DAVE BYDALEK: The lights are on.

SENATOR BOURNE: ...three minutes, exclusive of questions.

DAVE BYDALEK: All right.

SENATOR BOURNE: Thank you.

DAVE BYDALEK: (Exhibit 20) Thank you, Chairman Bourne. Members of Judiciary Committee, my name is Dave Bydalek, B as in boy-y-d as in door-a-l-e-k. I'm the executive director of Family First, a nonprofit research and education organization located here in Nebraska. I'm here today to express Family First's support for LB 752. I believe many among us are unaware of the scientific, medical...and

medical evidence that unborn children can feel pain. Not only can they feel pain, but their ability to experience pain is heightened. My first experience with this issue actually came back when I was acting as co-counsel for the state of Nebraska in the Carhart v. Stenberg partial-birth abortion case that went all the way to the U.S. Supreme Court. In another trial, in expert testimony provided to the Northern District of U.S. Court in California, in April 2004 during the partial-birth abortion trials, this is the federal partial-birth abortion trials, Dr. "Sonny" Anand, director of the Pain Neurobiology Laboratory at Arkansas Children's Hospital Research Institute, explained that the human fetus possesses the ability to experience pain from 20 weeks gestation, if not earlier, and the pain perceived by a fetus is possibly more intense than that perceived by term newborns or older children. Dr. Anand further described for the court that the highest density of pain receptors per square inch of skin in human development occurs in utero from 20 to 30 weeks gestation. During this period, the epidermis is still very thin, leaving nerve fibers closer to the surface of the skin than in older neonates and adults. He went on to explain that the pain "inhibitory" mechanisms, fibers which dampen and modulate the experience of pain, do not begin to develop until 32 to 34 weeks gestation. Thus, a fetus at 20 to 32 weeks gestation would experience a much more intense pain than older infants or children or adults when these age groups are subjected to similar types of injury or handling. Because they can feel pain, unborn children are often administered anesthesia during in utero surgeries. For the unborn that are aborted, the pain they experience must be unimaginable, especially during the more gruesome abortion procedures. Even the American Civil Liberties Union has conceded that unborn children feel pain during an abortion. In a February motion to exclude evidence regarding fetal pain in the partial-birth abortion ban trials, the ACLU went so far as to argue that testimony on fetal pain in relation to partial birth abortion was irrelevant partly because dilation and evacuation abortion involving dismemberment is more painful than a partial-birth abortion. So the question isn't whether unborn babies suffer pain during an abortion, but how much. In their own words, the ACLU motion conceded that Dr. Anand admitted under oath that a dilation and evacuation procedure involving dismemberment, an abortion procedure the defendant claims was outside the scope of the

Partial-Birth Abortion Act, is more painful than a dilation and extraction procedure involving intact delivery. It went on to say that in light of this concession, then certainly legal procedure is more painful than the one the statute purportedly bans. The defendant has no basis for contending that fetal pain is an interest advanced by the act. In response to this reality, LB 752 would require those who perform abortions on unborn children 20 weeks after fertilization to inform the woman seeking an abortion of the medical evidence that the unborn child feels pain. I see my time is up. I did want to note that I have submitted into the record testimony and reports of numerous medical experts who have expertise in the area of fetal pain, and these are the same reports that Congress and other states that have taken up this issue have relied upon when enacting this legislation, and I would urge you to read those reports. They're very enlightening. So Family First would respectfully ask that you advance LB 752 to the...to General File for consideration by the entire Legislature. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Bydalek? Seeing none, thank you. Those documents will be entered into the record. Next testifier.

GREG SCHLEPPENBACH: (Exhibit 21) Senator Bourne and members of the Judiciary Committee, my name is Greg Schleppenbach. I am speaking on behalf of the Nebraska Catholic Conference in my capacity as director of Pro-Life Activities. The conference represents the mutual public policy interests and concerns of the three Catholic dioceses in Nebraska. My testimony really is much reiteration of what you've heard already, so I'm not going to read through it. Let me just simply say that I think regardless of what one's view of the unborn is, whatever degree of value or status you might give it, I think at a very minimum we owe it this, and that is to treat this entity humanely and allow the mother to be aware of the possibility of pain and the option of applying pain control in the case of an abortion. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Schleppenbach? Seeing none, thank you. Next testifier in support.

AL RISKOWSKI: (Exhibit 22) Yes, Al Riskowski, R-i-s-k-o-w-s-k-i, for Nebraska Family Council. We are also a proponent for LB 752, feeling that it is very much a bill of compassion, compassion for the unborn, as well as I feel it's very important that women should be aware what they are doing if they are going to be aborting a child after the 20th week of their pregnancy. I do have some sheets here that I would like to distribute to you. On the back of that, the sheets, is a sheet here that has a bit of a chart that has been put together as to the development of an unborn child and the feeling of pain and the different parts that are in place in the human body as it develops in the womb, and I think that's very explanatory, very revealing in regard to this area. Just in a practical sense, if you took a small infant and you stuck them with a pin in their hand, you can tell what's going to happen. They're going to open their mouth. They're going to cry and they're going to pull their hand away. And I have seen the studies which have demonstrated that even an eight-week-old fetus, when the palm of the hand is stuck in a similar way, they also open their mouth and they pull their hand away in a very similar way. Back in 1984, President Reagan said, when the lives of the unborn are snuffed out, they often feel pain, pain that is long and agonizing; President Ronald Reagan, to the National Religious Broadcasters in the New York Times, January 31, 1984. This provoked a public reaction from proabortion circles and a response from an auspicious group of professors, including pain specialists and two past presidents of the American College of Obstetrics and Genealogy. They strongly backed Mr. Reagan and produced substantial documentation. Excerpts of this letter to him included, quote: Real time, and I hope I'm pronouncing this correctly, ultrasonography, fetoscopy, study of the fetal EKG, fetal EEG have demonstrated the remarkable responsiveness of the human fetus to feel pain. You stand on firmly established ground, they said to then President Reagan. So I just encourage the passage of this bill and fully support what is taking place here. Thank you.

SENATOR BOURNE: Thank you. Questions for Mr. Riskowski? Seeing none, thank you. Next testifier in support.

JULIE SCHMIT-ALBIN: (Exhibits 23, 26) Good afternoon. My name is Julie Schmit-Albin. I'm executive director of Nebraska Right to Life, and I'm appearing in support of

LB 752, and I thank Senator Foley for bringing this bill. I believe my handout might be the same as Al's. We didn't coordinate on that. So if it is, pardon that. (Laugh) My comments are very similar to what Senator Foley already stated regarding the allowing of humane treatment for animals and criminal penalties for people who torture their pets. And if unborn babies are subjected to death by dismemberment, no thought is given to what that feels like. And as the mother of four children, any pregnant mom can tell you that after 20 weeks, when that little foot comes out in your womb or another part of the baby presents and you pat the baby or there's a loud noise, that baby is going to react. So, as stated, it only makes sense that it be recognized through the scientific studies that have been presented as a basis for this legislation that we could, at a minimum, offer this type of pain medication for a child at that gestation, and there should be recognition of that. And I ask for your advancement of LB 752. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Schmit-Albin? Seeing none, thank you.

JULIE SCHMIT-ALBIN: And I forgot to pass out my handouts earlier, so I'll...

SENATOR BOURNE: If you'd just set them there, we'll have the...

JULIE SCHMIT-ALBIN: Okay.

SENATOR BOURNE: ...the page hand them out when he returns. Thank you. Are there any other testifiers in support? Testifiers in opposition?

TIM BUTZ: (Exhibits 24, 25) Good afternoon, Senator Bourne, members of the committee. My name is Tim Butz, B-u-t-z, executive director of ACLU Nebraska. I think I'm the last testifier of the day. I'm going to be short. I know you've had a long day of hearings. I've brought with me a statement from Planned Parenthood of Nebraska. They were unable to come today, and I ask that that be included in the record of the hearing. We oppose this bill for two reasons. Unlike what the other witnesses have said, we don't believe that the science on this is settled, and that was brought out in the Planned Parenthood Federation of

America v. Ashcroft trial that was part of the three trials on the federal Partial-Birth Abortion Ban Act, and the judge in that case decided that there is no consensus of medical opinion on the issue of fetal pain. More importantly for us is a matter of the first amendment and whether we are going to continue to have government mandated speech. We believe that the best informed consent on any medical operation should come from the doctor's determination of the patient's individual needs and the procedure that's to be performed. Physicians, and not politicians, should decide what information and treatment options are given to women. And, with that, I'll take any questions if you have them.

SENATOR BOURNE: Thank you. Are there questions for Mr. Butz? Senator Combs.

SENATOR COMBS: I haven't had a chance to read what you just handed out, but I guess I'm kind of surprised that the ACLU would be against this because I thought you guys, like, tried to protect everybody, you know, like anyone whose rights are being violated. And I'm a nurse and I can tell you...and I've been a mother, been pregnant carrying a kid, and I've got to believe they feel pain. I mean they withdraw away. You strike somebody in the abdomen that's pregnant and that kid reacts. I mean it's...

TIM BUTZ: Yeah, I believe in the handout from Planned Parenthood there's a discussion of...with...

SENATOR COMBS: They have a scientific explanation that that...

TIM BUTZ: ...with testimony from a doctor who...

SENATOR COMBS: ...that refutes that.

TIM BUTZ: ...that says that a fetus at that 20-week stage of gestation will respond to any kind of stimuli if it's aware of it. So I'm not here to debate the science. I think that the judge in San Francisco found there wasn't a consensus of medical opinion. My concern is more towards the forced speech that this bill involves, that we constantly talk about the best interests of the patient when we talk about medical procedures, and in this area it's the only area that I know of where the government has mandated

certain speech. And...

SENATOR COMBS: Can you explain forced speech? I'm not up on all this.

TIM BUTZ: Sure. Senator Foley had a book with him published by, I believe, the Department of Health and Human Services that is required to be offered to every patient who goes through an abortion or who goes into an abortion clinic and talks about having an abortion. That document is written by government bureaucrats. It is not individualized. It's a required matter. This bill would expand the scope of information to be included in that. We consider that forced speech.

SENATOR COMBS: Okay. I guess this was kind of an eyeopener for me. I'm sorry to belabor this, but I just thought the ACLU would be right there for this kid, protecting him. Because, like you said, you know, the doctor testified, you know, you're taking a crab cutter and cutting his brains out, you're killing him, and his feet are moving. He's moving all over. And when you do that, you rip him up after he's out of the body. I can't see where that's not pain, because he's got the same neurons, brain, pain receptors, all those, you know. And I'm not saying what I'm going to vote on this bill in my testimony. I'm just telling you as a nurse it's difficult for me to see how the ACLU would not try to protect the rights of that kid, you know, just because he ain't screamed outside yet.

TIM BUTZ: Uh-huh.

SENATOR COMBS: He's screaming inside, but he ain't screamed outside yet. So, to me, I'm just a little surprised at the position, if you can just allow me to say that. I know I'm supposed to be asking questions, but...

TIM BUTZ: Sure. But, no, I...

SENATOR COMBS: ...it's just surprising to me.

TIM BUTZ: Senator, the ACLU is pro-choice. We're unabashedly pro-choice. We make no apologies for being pro-choice. We believe that the matter of reproductive freedom is a matter of a woman's conscience and medical

advice and a decision that she ultimately is responsible for, and it's not the right of the state to interfere with that.

SENATOR COMBS: Okay. I guess I'm not looking at reproductive freedom. I'm looking at the rights of the kid that's on that table, still inside his mom; just the rights of the child, irrespective of the procedure being on the mother. You see where I'm going?

TIM BUTZ: I understand, yeah. I...

SENATOR COMBS: The child has rights.

TIM BUTZ: We...

SENATOR COMBS: Okay.

TIM BUTZ: ...we just have to...

SENATOR COMBS: Don't see...you see it as...

TIM BUTZ: We don't see eye to eye on this.

SENATOR COMBS: Okay, you see it entirely as a reproductive choice situation.

TIM BUTZ: Yes, ma'am.

SENATOR COMBS: Okay. Thanks.

SENATOR BOURNE: Further questions? Senator Foley.

SENATOR FOLEY: Mr. Butz, would it be safe to assume from your testimony that you're opposed to the entire informed consent statute that's on our books, that's been on our books for ten years or so?

TIM BUTZ: I think that would be a fair thing to say, sir.

SENATOR FOLEY: Would there be any point in the pregnancy, 30 weeks, 32 weeks, 40 weeks, when you would concede, yeah, at that point the child really can feel something?

TIM BUTZ: To us, it's not a matter of the medical science,

sir. It's a matter of the government mandating what doctors have to say, and that is the problem that we have with this bill, is that it is going to mandate speech that a doctor may not want to say; provide information that a doctor may not feel is appropriate to the situation that's presented by the person who's seeking services. If this were a bill mandating medical information be given on appendectomies, I would still oppose it. This, the right of medical professionals to form judgments based on their scientific knowledge and communicate that to their patient is important and we don't believe the state should be interfering in that communication process.

SENATOR FOLEY: So you don't necessarily dispute the notion that there really is a point in time when the unborn child can.

TIM BUTZ: Oh, I'm not going to say that that's junk science, sir. I did not come here to say that. I came here to say that there's a First Amendment issue at play here and that it needs consideration.

SENATOR FOLEY: But the bill provides that the doctor can provide whatever other additional information he chooses to provide, including information that would directly refute what's required by the bill.

TIM BUTZ: If the government passed a law saying that I, as a doctor or as anything, had to say that the moon is blue, but allowed me to say in reality, when you look at it late at night, it's white, that disclaimer does not negate the effect of the forced speech. And I have the right to form a learned opinion and to express that learned opinion to those that seek my services, and I think this bill interferes with that.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Are there further questions? Seeing none, thank you.

TIM BUTZ: Thank you.

SENATOR BOURNE: Other testifiers in opposition?

RICHARD HEDRICK: I'm Richard Hedrick, H-e-d-r-i-c-k. I'm against LB 752. Thought I was through testifying; listened to the testimony; decided to add. This is another moral high ground--those for the bill. If the right were moral concern, they would be yelling to high heaven over Bush's position on torture. Bush says that we do not have to abide with the Geneva Convention on prisoners. A Christian would say that we will abide by the Geneva Convention and we will also follow Christ's teachings to the letter. If you want to know what Christ's teachings are, ask Chambers. Christ was a liberal. Christ's teachings are liberal. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Hedrick? Seeing none, thank you. Further testifiers in opposition? Are there any neutral testifiers? Senator Foley to close. Senator Foley waives closing. That will conclude the hearing on LB 752 and the hearings for this afternoon. Thank you.